



AGENDA
CITY COMMISSION MEETING
COMMISSION CHAMBERS, CITY HALL
MONDAY, DECEMBER 07, 2015 5:30 PM

1. CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

2. PROCLAMATIONS: None

3. PRESENTATIONS: None

4. CONSENT AGENDA:

Routine items are placed on the Consent Agenda to expedite the meeting. If the Commission/Staff wish to discuss any item, the procedure is as follows: (1) pull the item(s) from the Consent Agenda; (2) vote on remaining items with one roll call vote, (3) discuss each pulled item and vote by roll call

A. CITY COMMISSION MEETING MINUTES: None

B. PURCHASING ITEMS:

1. Resolutions authorizing execution of Memorandum of Understandings with two Underwriter firms for future debt issuance pursuant to RFP 150472.

A. Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute a Memorandum of Understanding with RBC Capital Markets for possible future underwriter services; and providing an effective date.

B. Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute a Memorandum of Understanding with Stifel, Nicolaus & Company, Inc. for possible future underwriter services; and providing an effective date.

2. Purchase request by Information Technology for CISCO SmartNet maintenance and support.

3. Purchase request by the Public Works Fleet Services Division for the purchase of an contour rotary mower for a total cost of \$48,500.00.

4. Resolutions authorizing execution of two agreements for Structure Demolition and Related Services.

A. Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute a Fixed Unit Price Services Agreement with WHM Foundation Stabilization, LLC as the Primary Contractor to provide structure demolition and related services; and providing an effective date.

B. Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute a Fixed Unit Price Services Agreement with Cross Environmental Services, Inc. as the Secondary Contractor to provide structure demolition and related services; and providing an effective date.

C. RESOLUTIONS:

1. Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute an Amendment to the Management Services Agreement with Facci Bella, Inc.; and providing an effective date. (LakeFront TV)

2. Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute an Interlocal Agreement with Lake County under which the City will provide communications services and the County will allow use of two of its tower sites; and providing an effective date.

3. Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute a pole attachment agreement with Clay Electric Cooperative, Inc.; and providing an effective date.

4. Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute a lease agreement with DRJ Land, LLC, for property located west of the Airport Runway Protection Zone; and providing an effective date.

5. Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute an Interlocal Agreement with the FDOT, Lake County, Sumter County, various municipalities and agencies creating the Lake-Sumter Metropolitan Planning Organization and providing an effective date.

5. PUBLIC HEARINGS AND NON-ROUTINE ITEMS:

COMPREHENSIVE PLAN INFORMATION SIGN-UP SHEET (YELLOW) AVAILABLE

A. Second reading of an ordinance rezoning approximately 73 acres generally located on the north side of Griffin Road and east of CR 468 for Leesburg Fruit Company (Solar Farm)

B. Second reading of an ordinance amending the base year of the US Highway 441/27 Community Redevelopment Agency to year 2014 and approving the Trust Fund

C. Authorize Carver Heights CRA Capital Improvement Project - "Outreach Center"

6. INFORMATIONAL REPORTS:

The following reports are provided to the Commission in accordance with the Charter/Ordinances. No action required.

7. CITY ATTORNEY ITEMS:

8. CITY MANAGER ITEMS:

9. PUBLIC COMMENTS:

This section is reserved for members of the public to bring up matters of concern or opportunities for praise. Issues brought up will not be discussed in detail at this meeting. Issues will either be referred to the proper staff or will be scheduled for consideration at a future City Commission Meeting. Comments are limited to three minutes.

10. ROLL CALL:

11. ADJOURN:

PERSONS WITH DISABILITIES NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE HUMAN RESOURCES DEPARTMENT, ADA COORDINATOR, AT 728-9740, 48 HOURS IN ADVANCE OF THE MEETING.

F.S.S. 286.0105 "If a person decides to appeal any decision made by the Commission with respect to any matter considered at this meeting, they will need a record of the proceedings, and that for such purpose they may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based." The City of Leesburg does not provide this verbatim record.



AGENDA MEMORANDUM

Item No: 4.B.1.

Meeting Date: December 7, 2015

From: Bill Spinelli, CPA – Finance Director

Subject: Resolutions authorizing execution of Memorandum of Understandings for possible future financial services related to debt issuance.

Staff Recommendation:

Staff recommends approval of both resolutions authorizing execution of each Memorandum of Understanding (MOU) with RBC Capital Markets and Stifel, Nicolaus & Company, Inc.

Analysis:

The City was assisted by its Financial Advisor PFM Group in the issuance of a Request for Proposal (RFP) to select one or more firms to provide underwriter services on any possible future debt issuance. The RFP was released on August 26, 2015. On September 15, 2015 the City received 14 responses from interested firms as listed on the attached List of Respondents.

The evaluation committee, with assistance from PFM Group staff, evaluated the proposals and selected RBC Capital Markets and Stifel, Nicolaus & Company, Inc. as the top two ranked firms. The full ranking is shown in the attached Ranking Detail.

The City desires to execute the attached MOU's to document the firms selected to be used on any future debt issuance. If the City Commission approve the issuance of debt staff will solicit from each of the two firms a proposal for the specific issuance. Staff will select a firm and present to commission the agreement for underwriter services for the specific issuance.

Options:

1. Approve execution of the Memorandum of Understandings with each firm as listed; or
2. Such alternative action as the Commission may deem appropriate

Fiscal Impact:

Fiscal impact is unknown at this time and cannot be determined until an actual debt issuance is made. All costs associated with the debt issuance will be rolled into the total cost.

Submission Date and Time: 12/3/2015 1:24 PM

Department: <u>Finance Department</u> Prepared by: <u>Mike Thornton</u> Attachments: Yes <u>X</u> No <u> </u> Advertised: <u>Not Required</u> <u>X</u> Dates: <u> </u> Attorney Review : Yes <u> </u> No <u> </u> <u> </u> Revised 6/10/04	Reviewed by: Dept. Head <u> </u> Finance Dept. <u> </u> Deputy C.M. <u> </u> Submitted by: City Manager <u> </u>	Account No. <u>NA</u> Project No. <u> </u> WF No. <u> </u> Budget <u> </u> Available <u> </u>
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RFP 150472 – UNDERWRITER SERVICES

List of Respondents

The firms listed here submitted a response to City of Leesburg Request for Proposal 150472 before the appointed due date and time. Respondent is reminded communications of any type related to this solicitation with **ANY** City of Leesburg employee, official, or representative other than the designated procurement representative are not permitted.

SunTrust Robinson Humphrey, Inc.

200 S. Orange Avenue, SOAB 5th Floor
Orlando, Florida 32801

Hutchinson, Shockey, Erley & Co.

4545 Post Oak Place, Suite 315
Houston, Texas 77027

Edward Jones

12555 Manchester Road
St. Louis, MO 63131-3729

Wells Fargo Securities

Government & Institutional Financing
2363 Gulf to Bay Blvd, #200
Clearwater, Florida 33765

RBC Capital Markets

100 2nd Avenue South, Suite 800
St. Petersburg, Florida 33701

Raymond James

807 W. Morse Boulevard, Suite 200
Winter Park, Florida 32789

Stiffel, Nicolaus & Company, Inc.

111 N. Magnolia Avenue, Suite 1175
Orlando, Florida 32801

Bank of America – Merrill Lynch

250 South Park Avenue, Suite 400
Winter Park, Florida 32789

--- No other responses received. ---

Florida Statute 119.071 (b)1.a. Sealed bids or proposals received by an agency pursuant to invitations to bid, requests for qualifications or requests for proposals are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the agency provides notice of a decision or intended decision pursuant to s. 120.57(3)(a) or within 30 days after opening the solicitation, whichever is earlier.

RFP 150472 - Debt Service Underwriter

Evaluation Scoring Ranking

	OVERALL TOTALS			Evaluator 1		Evaluator 2		Evaluator 3	
Firm Name	Rank	Total Ord.	Points	Score	Rank	Score	Rank	Score	Rank
SunTrust Robinson Humphrey	7	18	928	235	7	385	7	307.5	4
Edward Jones	8	24	864	195	8	384	8	285	8
Hutchinson, Shockey, Erley & Co	5	14	1005	300	3	400	6	305	5
Wells Fargo Secruities	6	15	995	300	3	405	5	290	7
RBC Capital Markets	1	3	1292	390	1	472	1	430	1
Raymond James	3	10	1049	325	2	419	3	305	5
Stiffel, Nicolaus & Company, Inc.	2	7	1166	300	3	466	2	400	2
Bank of America-Merrill Lynch	4	13	1073	290	6	415	4	368	3

	Weight	Evaluator 1		Evaluator 2		Evaluator 3	
		Score 1-5	Extended Points Score x Weight	Score 1-5	Extended Points Score x Weight	Score 1-5	Extended Points Score x Weight
SunTrust Robinson Humphrey			235		385		307.5
Experience of the firm's primary personnel	25	3	75	4	100	3	75
Experience with similar transactions	25	2	50	3.8	95	2.5	62.5
Plan of Finance Discussion	20	2	40	3.9	78	3	60
Credit/Marketing Analysis	20	3	60	4.1	82	3.5	70
Pricing - reasonableness of gross spread, takedowns	10	1	10	3	30	4	40
Edward Jones			195		383.5		285
Experience of the firm's primary personnel	25	3	75	3.9	97.5	4	100
Experience with similar transactions	25	2	50	4	100	3	75
Plan of Finance Discussion	20	2	40	3.8	76	2.5	50
Credit/Marketing Analysis	20	1	20	4	80	2	40
Pricing - reasonableness of gross spread, takedowns	10	1	10	3	30	2	20
Hutchinson, Shockey, Erley & Co			300		399.5		305
Experience of the firm's primary personnel	25	3	75	4	100	4	100
Experience with similar transactions	25	3	75	3.9	97.5	3	75
Plan of Finance Discussion	20	3	60	3.9	78	3	60
Credit/Marketing Analysis	20	3	60	4	80	2.5	50
Pricing - reasonableness of gross spread, takedowns	10	3	30	4.4	44	2	20
Wells Fargo Securities			300		405		290
Experience of the firm's primary personnel	25	3	75	4.1	102.5	3	75
Experience with similar transactions	25	3	75	3.9	97.5	3	75
Plan of Finance Discussion	20	3	60	4	80	3	60
Credit/Marketing Analysis	20	3	60	4.2	84	2.5	50
Pricing - reasonableness of gross spread, takedowns	10	3	30	4.1	41	3	30
RBC Capital Markets			390		472		430
Experience of the firm's primary personnel	25	4	100	4.8	120	5	125
Experience with similar transactions	25	4	100	4.8	120	5	125
Plan of Finance Discussion	20	4	80	4.7	94	3	60
Credit/Marketing Analysis	20	4	80	4.7	94	4.5	90
Pricing - reasonableness of gross spread, takedowns	10	3	30	4.4	44	3	30
Raymond James			325		419		305
Experience of the firm's primary personnel	25	4	100	4.1	102.5	4	100
Experience with similar transactions	25	3	75	4.3	107.5	3	75
Plan of Finance Discussion	20	3	60	4.1	82	2.5	50
Credit/Marketing Analysis	20	3	60	4.3	86	2.5	50
Pricing - reasonableness of gross spread, takedowns	10	3	30	4.1	41	3	30
Stiffel, Nicolaus & Company, Incorporated			300		465.5		400
Experience of the firm's primary personnel	25	3	75	4.7	117.5	3	75
Experience with similar transactions	25	3	75	4.8	120	5	125
Plan of Finance Discussion	20	3	60	4.6	92	4.5	90
Credit/Marketing Analysis	20	3	60	4.6	92	3.5	70
Pricing - reasonableness of gross spread, takedowns	10	3	30	4.4	44	4	40
Bank of America-Merrill Lynch			290		415		367.5
Experience of the firm's primary personnel	25	3	75	4.5	112.5	4.5	112.5
Experience with similar transactions	25	3	75	3.9	97.5	3	75
Plan of Finance Discussion	20	3	60	4.1	82	3	60
Credit/Marketing Analysis	20	3	60	4.2	84	4.5	90
Pricing - reasonableness of gross spread, takedowns	10	2	20	3.9	39	3	30

RESOLUTION NO. _____

RESOLUTION OF THE CITY COMMISSION OF THE CITY OF
LEESBURG, FLORIDA AUTHORIZING THE MAYOR AND CITY
CLERK TO EXECUTE A MEMORANDUM OF
UNDERSTANDING WITH RBC CAPITAL MARKETS FOR
POSSIBLE FUTURE UNDERWRITER SERVICES; AND
PROVIDING AN EFFECTIVE DATE.

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LEESBURG,
FLORIDA:**

THAT the Mayor and City Clerk are hereby authorized to execute a Memorandum
of Understanding with RBC CAPITAL MARKETS whose address is 100 2nd Avenue
South, Suite 800, St. Petersburg, Florida 33701 (email address:
mitch.owens@rbccm.com) for services related to debt issuance pursuant to Request for
Proposal 150472.

THAT this resolution shall become effective immediately.

PASSED AND ADOPTED by the City Commission of the City of Leesburg, Florida, at a
regular meeting held the 7th day of December 2015.

Mayor

ATTEST:

City Clerk

UNDERWRITER

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (MOU) is made as of the __7th__ day of __December__ in the year 2015, between THE CITY OF LEESBURG, FLORIDA, whose address is 501 West Meadow Street, Post Office Box 490630, Leesburg, Florida 34749-0630 (hereinafter referred to as the “CITY”), and RBC CAPITAL MARKETS whose address is 100 2nd Avenue South, Suite 800, St. Petersburg, Florida 33701 (hereinafter referred to as the “PROFESSIONAL”).

WHEREAS, the CITY issued a Request for Proposal (RFP) 150472 on August 26, 2015,

WHEREAS, the purpose of the RFP was to select one or more firms to serve as Underwriters for one or more bond issues related to the City’s funding of capital needs and/or refinancing of existing City debt issues,

WHEREAS, the CITY evaluated all proposals received and selected two firms to provide Underwriting Services with the PROFESSIONAL being one of them.

AGREEMENT

THEREFORE, in consideration of the mutual benefits accruing to the parties to this MOU, the parties agree as follows:

- a. Offer the PROFESSIONAL the opportunity to submit a proposal to serve as Underwriter on CITY bond issues and/or refinancing of existing City debt issues.
- b. The CITY does not represent or guarantee that any amount of financings will be completed.
- c. All fees shall be contingent upon the completion of financing.
- d. The City shall assemble an underwriting group that, in the City’s sole discretion, can provide the most cost-effective distribution for its bonds and be available to provide ideas and implement debt management strategies. At this time, the City anticipates assembling a team comprised of senior manager(s) and/or co-manager(s). Should the City engage in more than one issuance of debt, the book-running responsibilities among those firms designated as senior manager(s) may be awarded on a competitive basis or rotated between senior manager(s) at the discretion of the City.
- e. The City reserves the right to designate the percentage of participation of each member of the Underwriting Group in terms of joint and several liability and allocation/retention of bonds by maturity. Final allocation of bonds for each issue shall be reviewed by the City’s Financial Advisor.
- f. The book-running Senior Managing Underwriter for each issue for and on behalf of the Underwriting Group, is expected to work closely with the City’s staff, its Financial Advisor, Bond Counsel, and Disclosure Counsel on each financing. Negotiations with

the Financial Advisor and the City's designee relative to the terms of the sale of debt will result in the Underwriting Group's submission of a Purchase Contract for consideration by the City. The City reserves the right to terminate the engagement of the Underwriting Group at any time prior to acceptance of a Purchase Contract without liability to the City.

- g. The City reserves the right to select Disclosure Counsel and provide the Underwriter with standard securities law opinion.
- h. Should the PROFESSIONAL be selected to serve as the Underwriter on a debt issuance the CITY and PROFESSIONAL shall execute a separate agreement for the specific debt issuance. Said Agreement shall detail all fees and costs associated with the debt issuance.
- i. **Term and Termination.** Term of this agreement shall be for three (3) years from the date stated in the preamble. The City Commission shall have the option to renew the MOU for an additional term or terms not to exceed an additional three (3) years total. The CITY may terminate this Agreement at any time without cause by providing the PROFESSIONAL with THIRTY (30) calendar days' advance notice in writing.

[Signature page follows.]

IN WITNESS WHEREOF, the parties hereto have executed this MOU on the date indicated in the preamble to this MOU.

THE CITY OF LEESBURG, FLORIDA

By: _____
Elise Dennison, Mayor

ATTEST: _____
City Clerk

APPROVED AS TO FORM:

City Attorney

RBC CAPITAL MARKETS

By: _____

Printed: _____

Its: _____
(Title)

RESOLUTION NO. _____

RESOLUTION OF THE CITY COMMISSION OF THE CITY OF
LEESBURG, FLORIDA AUTHORIZING THE MAYOR AND CITY
CLERK TO EXECUTE A MEMORANDUM OF
UNDERSTANDING WITH STIFEL, NICOLAUS & COMPANY,
INC. FOR POSSIBLE FUTURE UNDERWRITER SERVICES;
AND PROVIDING AN EFFECTIVE DATE.

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LEESBURG,
FLORIDA:**

THAT the Mayor and City Clerk are hereby authorized to execute a Memorandum of Understanding with STIFEL, NICOLAUS & COMPANY, INC. whose address is 111 N. Magnolia Avenue, Suite 1175, Orlando, Florida 32801 (email address: sansburym@stifel.com) for services related to debt issuance pursuant to Request for Proposal 150472.

THAT this resolution shall become effective immediately.

PASSED AND ADOPTED by the City Commission of the City of Leesburg, Florida, at a regular meeting held the 7th day of December 2015.

Mayor

ATTEST:

City Clerk

UNDERWRITER

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (MOU) is made as of the 7th day of December in the year 2015, between THE CITY OF LEESBURG, FLORIDA, whose address is 501 West Meadow Street, Post Office Box 490630, Leesburg, Florida 34749-0630 (hereinafter referred to as the "CITY"), and STIFEL, NICOLAUS & COMPANY, INCORPORATED, whose address is 111 N. Magnolia Avenue, Suite 1175, Orlando, Florida 32801 (hereinafter referred to as the "PROFESSIONAL").

WHEREAS, the CITY issued a Request for Proposal (RFP) 150472 on August 26, 2015,

WHEREAS, the purpose of the RFP was to select one or more firms to serve as Underwriters for one or more bond issues related to the City's funding of capital needs and/or refinancing of existing City debt issues,

WHEREAS, the CITY evaluated all proposals received and selected two firms to provide Underwriting Services with the PROFESSIONAL being one of them.

AGREEMENT

THEREFORE, in consideration of the mutual benefits accruing to the parties to this MOU, the parties agree as follows:

- a. Offer the PROFESSIONAL the opportunity to submit a proposal to serve as Underwriter on CITY bond issues and/or refinancing of existing City debt issues.
- b. The CITY does not represent or guarantee that any amount of financings will be completed.
- c. All fees shall be contingent upon the completion of financing.
- d. The City shall assemble an underwriting group that, in the City's sole discretion, can provide the most cost-effective distribution for its bonds and be available to provide ideas and implement debt management strategies. At this time, the City anticipates assembling a team comprised of senior manager(s) and/or co-manager(s). Should the City engage in more than one issuance of debt, the book-running responsibilities among those firms designated as senior manager(s) may be awarded on a competitive basis or rotated between senior manager(s) at the discretion of the City.
- e. The City reserves the right to designate the percentage of participation of each member of the Underwriting Group in terms of joint and several liability and allocation/retention of bonds by maturity. Final allocation of bonds for each issue shall be reviewed by the City's Financial Advisor.
- f. The book-running Senior Managing Underwriter for each issue for and on behalf of the Underwriting Group, is expected to work closely with the City's staff, its Financial Advisor, Bond Counsel, and Disclosure Counsel on each financing. Negotiations with

the Financial Advisor and the City's designee relative to the terms of the sale of debt will result in the Underwriting Group's submission of a Purchase Contract for consideration by the City. The City reserves the right to terminate the engagement of the Underwriting Group at any time prior to acceptance of a Purchase Contract without liability to the City.

- g. The City reserves the right to select Disclosure Counsel and provide the Underwriter with standard securities law opinion.
- h. Should the PROFESSIONAL be selected to serve as the Underwriter on a debt issuance the CITY and PROFESSIONAL shall execute a separate agreement for the specific debt issuance. Said Agreement shall detail all fees and costs associated with the debt issuance.
- i. **Term and Termination.** Term of this agreement shall be for three (3) years from the date stated in the preamble. The City Commission shall have the option to renew the MOU for an additional term or terms not to exceed an additional three (3) years total. The CITY may terminate this Agreement at any time without cause by providing the PROFESSIONAL with THIRTY (30) calendar days' advance notice in writing.

[Signature page follows.]

IN WITNESS WHEREOF, the parties hereto have executed this MOU on the date indicated in the preamble to this MOU.

THE CITY OF LEESBURG, FLORIDA

By: _____
Elise Dennison, Mayor

ATTEST: _____
City Clerk

APPROVED AS TO FORM:

City Attorney

**STIFEL, NICOLAUS &
COMPANY, INCORPORATED**

By: Matthew J. Sansberg

Printed: Matthew J. Sansberg

Its: Managing Director
(Title)



AGENDA MEMORANDUM

Item No: 4.B.2.

Meeting Date: December 7, 2015

From: Tino Anthony, Information Technology Director

Subject: Purchase request for CISCO SmartNet renewal of maintenance and support services

Staff Recommendation:

Staff Recommends approval of the purchase request to Veytec, Inc. for a total amount of \$46,522.58.

Analysis:

The City operates an extensive computer network. The network is comprised of a significant amount of computer hardware such as switches, firewalls, and routers. This purchase is for the annual maintenance and support through CISCO for all of the CISCO brand hardware. This generally includes switches, servers and Voice Over Internet Protocol (VOIP) telephone system.

A small portion (\$2,644.20) of this purchase is being charged to Smart Grid. This cost is for the CISCO switches and firewall hardware used on the Smart Grid system. The remaining cost is charged to the Information Technology outside maintenance budget.

The cost of the maintenance has increased over last years' amount of \$42,750.34. A 8.45% increase.

Procurement Analysis:

In this instance, the maintenance and support services are purchased through a CISCO authorized reseller. This purchase is being made using the State of Florida Information Technology Contract. This purchase was put out to bid last year and CISCO was the only reseller that could provide pricing for all hardware elements.

Options:

1. Approve the purchase to Veytec, Inc.; or
2. Such alternative action as the Commission may deem appropriate

Fiscal Impact:

Funds are budgeted and available.

Submission Date and Time: 12/3/2015 1:24 PM

<p>Department: <u>Information Technology</u></p> <p>Prepared by: <u>Mike Thornton</u></p> <p>Attachments: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>Advertised: <input type="checkbox"/> Not Required <input checked="" type="checkbox"/></p> <p>Dates: _____</p> <p>Attorney Review : Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>_____</p> <p>Revised 6/10/04</p>	<p>Reviewed by: Dept. Head _____</p> <p>Finance Dept. _____</p> <p>Deputy C.M. _____</p> <p>Submitted by: _____</p> <p>City Manager _____</p>	<p>Account No. <u>001-1633-513.46-33</u></p> <p><u>001-1632-513.46-33</u></p> <p><u>001-1633-513.46-36</u></p> <p>Project No. <u>SMARTG</u></p> <p>Rea, No. <u>47920</u></p> <p>WF No. _____</p> <p>Budget _____</p> <p>Available _____</p>
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VEYTEC, INC
 2418 SILVER STAR RD ORLANDO, FL 32804
 Phone: 407-849-6391 - Fax: 407-849-0461

QUOTATION

Date	Quote #
10/13/15	AAAQ6704-01

Sold To: CITY OF LEESBURG

501 W MEADOW ST
 2ND FLOOR CITY HALL
 LEESBURG, FL 34748

Ship To: CITY OF LEESBURG

501 W MEADOW ST
 2ND FLOOR CITY HALL
 LEESBURG, FL 34748

*NVP #AR233 (14-19) Participating Addendum for FL
 #43220000-WSCA-14-ACS*

TERMS:

Account Manager

NET30

FLOYD HENSON

Contract#	Snt Level	Mfg Part Num	Svc P/N	Serial #	Start Date	End Date	Price
91332082	SNT	AIR-AP1041N-A-K9	CON-SNT-A1041A	FTX1550E719	10/01/2015	09/30/2016	\$20.70
91332082	SNT	AIR-BR1310G-A-K9-R	CON-SNT-AIRBR13R	FTX0827U0AB	10/01/2015	09/30/2016	\$108.00
91332082	SNT	ATA187-I1-A=	CON-SNT-ATA187I1	FCH16029BAZ	10/01/2015	09/30/2016	\$21.60
91332082	SNT	CP-6921-C-K9=	CON-SNT-21CK	PXN16010Q1E	10/01/2015	09/30/2016	\$14.40
91332082	SNT	CP-7937G=	CON-SNT-CP7937	0004F2EEEAC3	10/01/2015	09/30/2016	\$49.50
91332082	SNT	CP-7937G=	CON-SNT-CP7937	0004F2EEEB4E	10/01/2015	09/30/2016	\$49.50
91332082	SNT	CP-7937G=	CON-SNT-CP7937	0004F2EEEB8E	10/01/2015	09/30/2016	\$49.50
91332082	SNT	CP-7942G=	CON-SNT-CP7942	FCH160387Q1	10/01/2015	09/30/2016	\$9.00
91332082	SNT	CP-7962G=	CON-SNT-CP7962	FCH15519YE7	10/01/2015	09/30/2016	\$9.00
91332082	SNT	UCSC-C220-M3S	CON-SNT-C220M3SF	FCH1711V0JQ	10/01/2015	09/30/2016	\$248.40
91332082	SNT	VG224	CON-SNT-VG224	FTX1605AK5B	10/01/2015	09/30/2016	\$388.80
91332082	SNT	WS-C2960G-24TC-L	CON-SNT-C2960G2C	FOC1620V2MU	10/01/2015	09/30/2016	\$187.20
91332082	SNT	WS-C2960G-24TC-L	CON-SNT-C2960G2C	FOC1626V0RH	10/01/2015	09/30/2016	\$187.20
91438597	SNT	ASA5510-SEC-BUN-K9	CON-SNT-AS1SBK9	JMX1525L11A	10/01/2015	09/30/2016	\$781.20
91438597	SNT	ASA5510-SEC-BUN-K9	CON-SNT-AS1SBK9	JMX1531L180	10/01/2015	09/30/2016	\$781.20
91438597	SNT	C3925-CME-SRST/K9	CON-SNT-3925CMST	FTX1605AJYE	10/01/2015	09/30/2016	\$1,631.70
91438597	SNT	C3925-CME-SRST/K9	CON-SNT-3925CMST	FTX1605AJYF	10/01/2015	09/30/2016	\$1,631.70
91438597	SNT	WS-C4500X-16SFP+	CON-SNT-WSC16SFX	JAE1733094F	10/01/2015	09/30/2016	\$1,555.20
91438597	SNT	WS-C4510RE-S7+96V+	CON-SNT-4510RES7	FOX1522G3H2	10/01/2015	09/30/2016	\$4,091.40
91438597	SNT	WS-C4510RE-S7+96V+	CON-SNT-4510RES7	FOX1543G5K4	10/01/2015	09/30/2016	\$4,091.40
91438597	SNT	WS-C4510RE-S7+96V+	CON-SNT-4510RES7	FXS1807Q3L5	10/01/2015	09/30/2016	\$4,091.40
92168330	ECMU	ANLG-DEV-UWL	CON-ECMU-DEVUWL	QTY 36	10/01/2015	09/30/2016	\$162.00
92168330	ECMU	L-CCX-85-N-P-LIC	CON-ECMU-CCXNPLIC	QTY 25	10/01/2015	09/30/2016	\$6,660.00
92168330	ECMU	LIC-CUCM-ESS-A	CON-ECMU-CUCMESSA	QTY 4	10/01/2015	09/30/2016	\$18.00
92168330	ECMU	LIC-CUCM-USR-A	CON-ECMU-EUSRA1	QTY 121	10/01/2015	09/30/2016	\$2,613.60
92168330	ECMU	LIC-UWL-STD-SLED-A	CON-ECMU-SSLEDA	QTY 245	10/01/2015	09/30/2016	\$8,599.50
92168330	ECMU	L-UNITYCN8-USR	CON-ECMU-UNCN8R	QTY 80	10/01/2015	09/30/2016	\$1,080.00
92168330	ECMU	PUBLIC-IP-DEV-UWL	CON-ECMU-IPDEVUWL	QTY 30	10/01/2015	09/30/2016	\$405.00
92168330	ECMU	R-VMW-UC-FND	CON-ECMU-VMWUCFND	QTY 2	10/01/2015	06/30/2016	\$403.88
92170992	UCSD5	UCS-C210M2-VCD2	CON-UCSD5-C210M2VC	QCI1549A96F	10/01/2015	09/30/2016	\$655.20

Contract#	Snt Level	Mfg Part Num	Svc P/N	Serial #	Start Date	End Date	Price
92170992	UCSD5	UCS-C210M2-VCD2	CON-UCSD5-C210M2VC	QCI1549A97D	10/01/2015	09/30/2016	\$655.20
92347811	SU3	ASA5515-IPS-K9	CON-SU3-A15IPS9	FGL161740JJ	10/01/2015	09/30/2016	\$1,322.10
92347811	SU3	ASA5515-IPS-K9	CON-SU3-A15IPS9	FGL161740JK	10/01/2015	09/30/2016	\$1,322.10
93965743	SNTP	WS-C3650-24TD-S	CON-SNTP-WSC365BU	FDO1736Q0LG	10/01/2015	09/30/2016	\$525.60
93965743	SNTP	WS-C3650-24TD-S	CON-SNTP-WSC365BU	FDO1737Q0PN	10/01/2015	09/30/2016	\$525.60
93965743	SNTP	WS-C3650-24TD-S	CON-SNTP-WSC365BU	FDO1744Q0KM	10/01/2015	09/30/2016	\$525.60
93965743	SNTP	WS-C3650-24TD-S	CON-SNTP-WSC365BU	FDO1744Q0L8	10/01/2015	09/30/2016	\$525.60
93965743	SNTP	WS-C3650-24TD-S	CON-SNTP-WSC365BU	FDO1804Q09J	10/01/2015	09/30/2016	\$525.60

QUOTE VALID FOR 60 DAYS

Total \$46,522.58

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AGENDA MEMORANDUM

Item No: 4.B.3.

Meeting Date: December 7, 2015

From: DC Maudlin, Public Works Director

Subject: Purchase of a replacement contour mower

Staff Recommendation:

Staff recommends award of Invitation to Bid (ITB) 160121 to Jacobsen, A Textron Company; and approve the purchase from Jacobsen, A Textron Company for a total cost of \$48,500.00.

Analysis:

The purpose of this Invitation to Bid (ITB) is to purchase a new Contour Rotary Mower to be used by the Recreation Department for maintenance of the turf surfaces at ball fields.

A 2003 Toro 3500 D (Unit #0267) mower is being replaced with the purchase of this unit. The unit being replaced has approximately 4,050 hours of use.

The current mower will be removed from service and sent to auction for disposal. Auction proceeds will be put back into the Fleet Internal Service Fund as required by Generally Accepted Accounting Practices (GAAP).

Procurement Analysis:

On October 28, 2015 the Purchasing Division issued ITB 160121 requesting interested and qualified equipment dealers to submit sealed bids. The minimum equipment specifications were prepared by the Fleet Services Manager and specified acceptable equipment as either a Jacobsen or Toro brand mower.

The Purchasing Division directly notified all known parties that deal in this type of equipment. The ITB was also posted to the City's official on-line bid management system Public Purchase. On November 17, 2015 two sealed bids were received in response to the ITB. The summary of bids is included here and the detailed Final Bid Tabulation is attached for your review.

The Fleet Services Manager has reviewed the bids submitted and determined the Jacobsen model AR522 Contour Rotary Mower bid by Jacobsen, A Textron Company of Lakeland, FL meets the minimum equipment specifications. Jacobsen has been deemed a responsible bidder submitting the lowest responsive bid.

The City's Local Vendor Preference (LVP) policy was not a factor as neither of the bidders qualified for either tier under the LVP policy.

SUMMARY OF BIDS

Bidder Name	Location	Manufacturer	Model Year	Days For Delivery	Total Bid Price
Jacobsen, A Textron Company	Lakeland, FL	Jacobsen	2016	30	\$48,500.00
Westco Turf, Inc.	Orlando, FL	Toro	2016	120	\$48,649.99

Options:

1. Approve the bid award and purchase to Jacobsen, A Textron Company for \$48,500.00; or
2. Such alternative action as the Commission may deem appropriate

Fiscal Impact:

Fleet Services budgeted, and has available, \$51,000 for this purchase in the 2016 Fiscal Year. This purchase is \$2,500.00 below budget.

Submission Date and Time: 12/3/2015 1:24 PM

Department: <u>Public Works/Fleet</u> Prepared by: <u>Mike Thornton</u> Attachments: Yes <u>X</u> No <u> </u> Advertised: <u>Not Required</u> <u>X</u> Dates: <u> </u> Attorney Review : Yes <u> </u> No <u> </u> <u> </u> Revised 6/10/04	Reviewed by: Dept. Head <u> </u> Finance Dept. <u> </u> Deputy C.M. <u> </u> Submitted by: City Manager <u> </u>	Account No. <u>510-5199-519.64-23</u> Project No. <u>FLEET</u> WF No. <u>WF0997405 / 001</u> Req. No. <u>47860</u> Budget <u>\$51,000.00</u> Available <u>\$51,000.00</u>
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BID TABULATION
ITB 160121 - CONTOUR ROTARY MOWER

		Jacobsen, A Textron Company	Wesco Turf, Inc.
		Lakeland, FL	Sarasota, FL
1.0		\$48,500.00	\$48,648.99
	Manufacturer:	Jacobsen	Toro
	Model:	AR522 (068132)	GM4300-D
	Model Year:	2016	2016
	Delivery Cal. Days ARO:	3-10	120
Total Bid Price		\$48,500.00	\$48,648.99
Local Vendor Preference Adjusted:		\$48,500.00	\$48,648.99

SEALED BID REVIEW SUMMARY

BIDDER DETERMINED RESPONSIVE	YES	YES
BIDDER DETERMINED RESPONSIBLE	YES	YES
FEI/EIN Number	05-0315468	59-2763187
General Vendor Information	YES	YES
Bidders Certification	YES	YES
Exceptions	NO	NO
Addendum Acknowledgement	None Issued	None Issued
Local Vendor Preference	NO	NO
Signature	YES	YES
Schedule of Bid Items	YES	YES
Equipment Information	YES	YES

This Final Bid Tabulation was reviewed and approved by:



Mike Thornton , Purchasing Manager

City of Leesburg, FL
Purchasing Division

BID TABULATION
ITB 160121 - CONTOUR ROTARY MOWER

November 17, 2015
2:00 PM



AGENDA MEMORANDUM

Item No: 4.B.4.

Meeting Date: December 7, 2015

From: Al Minner, City Manager

Subject: Resolutions authorizing execution of two agreements for structure demolition and related services.

Staff Recommendation:

Staff recommends award of the Invitation to Bid (ITB) and approval of the resolution authorizing execution of the Agreement with WHM Foundation Stabilization as the primary contractor. Staff also recommends award of the ITB and approval of the resolution authorizing execution of an Agreement with Cross Environmental Services, Inc. as the secondary contractor.

Analysis:

The purpose of this Invitation to Bid is to establish agreements with qualified and interested Contractors to provide structure demolition and related services. These services will be used primarily by Code Enforcement and Housing, but may be used by any City department for the demolition of structures or other improvements to parcels.

These agreements will provide a primary and secondary contractor that will be called when structure demolition is required. The cost of the demolition will be based on the unit costs provided by the Contractors in their bid and stated in the Agreements.

Procurement Analysis:

On November 9, 2015 the Procurement Division issued ITB 160021 for the services. The Division directly notified 31 contractors and advertised in local newspapers as well as posting the ITB to the City's on-line bid notification system Public Purchase.

On November 24, 2015 the City received 9 sealed bid responses. One of the responses was deemed non-responsive as the vendor did not have the required license(s). The remaining eight contractors are listed on the attached Detailed Bid Tabulation. Staff has reviewed the bids and determined WHM Foundation Stabilization and Cross Environment Services, Inc. submitted responsive and responsible bids and are being recommended for award as primary and secondary contractor respectively.

Evaluation of the bids was based solely on the Base Bid Items as detailed in the solicitation document. The Base Bid Items have been determined to be the core services that will be required under the Agreement(s). The items listed as Additional Items will be reimbursed at the unit costs should the City need those services.

It is important to note the unit cost for structure demolition does NOT include the disposal of the debris. The City will reimburse the Contractor(s) based on the actual cost of tipping fees charged by the disposal site.

SUMMARY OF BIDS – Based on total of base bid items.

Bidder Name	Location	Base Bid Amount	Local Vendor Preference
WHM Foundation Stabilization	Port Richey, FL	\$92,225.00	NO
Cross Environmental Services, Inc.	Crystal Springs, FL	\$105,625.00	NO
Cross Construction Services, Inc.	Lutz, FL	\$114,875.00	NO
EKG Enterprises, Inc.	Clermont, FL	\$127,750.00	YES – Tier II 2%
Johnson's Excavation & Services, Inc.	Plant City, FL	\$136,000.00	NO
Greenwood & Son Contracting, Inc.	Grand Island, FL	\$139,375.00	YES – Tier II 2%
Simpson Environmental Services, Inc.	Dade City, FL	\$247,875.00	NO
Metro Rural Construction	Leesburg, FL	\$264,905.00	Yes – Tier I 5%

The City's Local Vendor Preference policy was applied but did not result in any of the three local vendors becoming the low bidder(s).

Using the pricing from the low bidder, WHM Foundation Stabilization, these costs could be expected for demolition:

- Wood frame home on pier blocks – 900 sq. feet = \$1,350.00 plus debris disposal fees.
- Concrete block home on slab – 1,000 sq. feet = \$1,750.00 plus debris disposal fees.

Options:

1. Approve both resolutions authorizing execution of an Agreement with WHM Foundation Stabilization and an Agreement with Cross Environmental Services, Inc.; or
2. Such alternative action as the Commission may deem appropriate

Fiscal Impact:

The cost of demolition will be funded from the department requesting the services.

Submission Date and Time: 12/3/2015 1:24 PM

Department: <u>City Wide</u> Prepared by: <u>Mike Thornton</u> Attachments: <u>Yes</u> <u>No</u> Advertised: <u>Not Required</u> Dates: _____ Attorney Review: <u>Yes</u> <u>No</u> Revised 6/10/04	Reviewed by: Dept. Head _____ Finance Dept. _____ Deputy C.M. _____ Submitted by: City Manager _____	Account No. <u>Various Unspecified</u> Project No. _____ WF No. _____ Budget _____ Available _____
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VENDOR NAME				WHM Foundation Stabilization		Cross Environmental Services, Inc.		Cross Construction Servcies, Inc.	
VENODR LOCATION				Port Richey, FL		Cyrstal Springs, FL		Lutz, FL	
ITEM	BASE BID ITEMS ITEM DESCRIPTION	Quantity	UOM	Unit Cost	Extended Cost	Unit Cost	Extended Cost	Unit Cost	Extended Cost
1.0	Demolish/Dispose of Predominately Wood Frame Structure not on concrete slab	15,000	Sq. Ft.	\$1.50	\$22,500.00	\$2.25	\$33,750.00	\$2.75	\$41,250.00
2.0	Demolish/Dispose of Predominately Wood Frame Structure on concrete slab	15,000	Sq. Ft.	\$1.65	\$24,750.00	\$2.50	\$37,500.00	\$2.50	\$37,500.00
3.0	Demolish/Dispose of Predominately Concrete Block Structure assumes concrete slab	7,500	Sq. Ft.	\$1.75	\$13,125.00	\$2.65	\$19,875.00	\$2.25	\$16,875.00
4.0	Demolish/Dispose of Predominately Metal/Steel Structure	5,000	Sq. Ft.	\$1.45	\$7,250.00	\$1.00	\$5,000.00	\$0.50	\$2,500.00
5.0	Demolish/Dispose of Concrete slab and footer for item 4.0	3,000	Sq. Ft.	\$1.20	\$3,600.00	\$2.00	\$6,000.00	\$1.25	\$3,750.00
5.0	Demolish/Dispose of Surface Improvements (pool deck, driveways, sidewalks, slabs)	1,000	Sq. Ft.	\$1.00	\$1,000.00	\$1.50	\$1,500.00	\$1.00	\$1,000.00
7.0	Seed and Straw when requested	100,000	Sq. Ft.	\$0.20	\$20,000.00	\$0.02	\$2,000.00	\$0.12	\$12,000.00
TOTAL BASE BID ITEMS				\$92,225.00		\$105,625.00		\$114,875.00	
Local Vendor Preference				NO		NO		NO	
Local Vendor Preference Adjusted				\$92,225.00		\$105,625.00		\$114,875.00	
Ranking				1		2		3	
ADDITIONAL BID ITEMS									
A1	Clean Fill Dirt	1,000	Cu. Yd.	\$10.00	\$10,000.00	\$18.00	\$18,000.00	\$12.00	\$12,000.00
A2	Septic Tank Abandonment	5	Each	\$500.00	\$2,500.00	\$600.00	\$3,000.00	\$450.00	\$2,250.00
A3	Demolition Cancellation prior to mobilization	1	Each	\$0.00	\$0.00	\$200.00	\$200.00	\$100.00	\$100.00
A4	Demoliation caccellation after mobilizatio	1	Each	\$0.00	\$0.00	\$1,000.00	\$1,000.00	\$500.00	\$500.00
A5	Emergency Mobi., in addition to other charges	1	Each	\$0.00	\$0.00	\$500.00	\$500.00	\$500.00	\$500.00
A6	Mobi for septic tank removal if unable to locate or instructed to cease attempt to locate	1	Each	\$300.00	\$300.00	\$250.00	\$250.00	\$275.00	\$275.00
A7	Mono Pole and Foundation Removal	5	LF	\$3.00	\$15.00	\$300.00	\$1,500.00	\$200.00	\$1,000.00
A8	Asbestos Survey - Written	1	Each	\$500.00	\$500.00	\$1,000.00	\$1,000.00	\$1,000.00	\$1,000.00
A9	Pumping of Swimming Pool	1	Each	\$100.00	\$100.00	\$200.00	\$200.00	\$100.00	\$100.00
A10	Demolish and remove in-ground concrete pool empty or filled with water	100	Sq. Ft.	\$1.50	\$150.00	\$15.00	\$1,500.00	\$3.50	\$350.00
A11	Demolish and remove in-ground fiberglass pool empty or filled with water.	100	Sq. Ft.	\$1.50	\$150.00	\$10.00	\$1,000.00	\$3.00	\$300.00
A12	Demolish and remove above ground pool empty or filled with water	100	Sq. Ft.	\$1.00	\$100.00	\$10.00	\$1,000.00	\$2.00	\$200.00
A13	Excavate dirt, demolish and remove in-ground concrete pool filled with dirt	100	Sq. Ft.	\$2.00	\$200.00	\$20.00	\$2,000.00	\$5.00	\$500.00
A14	Excavate dirt, demolish and remove in-ground fiberglass pool filled with dirt	100	Sq. Ft.	\$2.00	\$200.00	\$15.00	\$1,500.00	\$4.50	\$450.00
A15	Demolish and remove wood fencing	100	LF	\$1.20	\$120.00	\$4.00	\$400.00	\$1.00	\$100.00
A16	Demolish and removal metal fencing to include chain link	100	LF	\$0.00	\$0.00	\$2.00	\$200.00	\$0.50	\$50.00
A17	Demolition Permit Obtained by Contractor	1	Each	\$156.40	\$156.40	\$156.40	\$156.40	\$156.40	\$156.40
A18	Tipping Fee - Current Price - City will reimburse contractor at actual cost	1,000	Ton	\$0.00	\$0.00	\$15.50	\$15,500.00	\$25.00	\$25,000.00

VENDOR NAME	WHM Foundation Stabilization	Cross Environmental Services, Inc.	Cross Construction Servcies, Inc.
VENODR LOCATION	Port Richey, FL	Cyrstal Springs, FL	Lutz, FL
SEALED BID RESONSIVE REVIEW SUMMARY			
IS THE BIDDER DETERMINED TO BE RESPONSIBLE	YES	YES	YES ¹
IS THE BID DETERMINED TO BE RESPONSIVE	YES	YES	YES
General Vendor Information	YES	YES	YES
Credit Card as Payment	YES	YES	YES
Item Bid Schedule	YES	YES	YES
Bidders Certification	YES	YES	YES
Exceptions	NONE	NONE	NONE
Acknowledgement of Addendum No. 1	YES	NO ²	YES
Sub-Contractor Listing	YES	YES	YES
Equipment Listing	YES	YES	YES
Statement of Experience	YES	YES	YES
Contractors License Verified	CGC1514790	CGC062981	CGC1505176
FEIN Number	46-1657385	59-2866646	59-3423008
Registered State of Florida	YES	YES	YES

Note 1: Responsible determined based solely on information requested and provided in the bid response. Project references not verified.

Note 2: Acknowledgemetn of Addednum 1 was not required.

This Final Bid Tabulation was reviewed and approved by:



Mike Thornton , Purchasing Manager

VENDOR NAME				EKG Enterprises, Inc.		Johnson's Excavation & Services, Inc.		Greenwood & Son Contracting, Inc.	
VENODR LOCATION				Clermont, FL		Plant City, FL		Grand Island, FL	
ITEM	BASE BID ITEMS ITEM DESCRIPTION	Quantity	UOM	Unit Cost	Extended Cost	Unit Cost	Extended Cost	Unit Cost	Extended Cost
1.0	Demolish/Dispose of Predominately Wood Frame Structure not on concrete slab	15,000	Sq. Ft.	\$1.75	\$26,250.00	\$2.80	\$42,000.00	\$2.95	\$44,250.00
2.0	Demolish/Dispose of Predominately Wood Frame Structure on concrete slab	15,000	Sq. Ft.	\$1.85	\$27,750.00	\$2.80	\$42,000.00	\$2.95	\$44,250.00
3.0	Demolish/Dispose of Predominately Concrete Block Structure assumes concrete slab	7,500	Sq. Ft.	\$1.80	\$13,500.00	\$2.80	\$21,000.00	\$2.95	\$22,125.00
4.0	Demolish/Dispose of Predominately Metal/Steel Structure	5,000	Sq. Ft.	\$1.25	\$6,250.00	\$1.80	\$9,000.00	\$2.95	\$14,750.00
5.0	Demolish/Dispose of Concrete slab and footer for item 4.0	3,000	Sq. Ft.	\$1.00	\$3,000.00	\$1.00	\$3,000.00	\$2.00	\$6,000.00
5.0	Demolish/Dispose of Surface Improvements (pool deck, driveways, sidewalks, slabs)	1,000	Sq. Ft.	\$1.00	\$1,000.00	\$1.00	\$1,000.00	\$2.00	\$2,000.00
7.0	Seed and Straw when requested	100,000	Sq. Ft.	\$0.50	\$50,000.00	\$0.18	\$18,000.00	\$0.06	\$6,000.00
TOTAL BASE BID ITEMS				\$127,750.00		\$136,000.00		\$139,375.00	
Local Vendor Preference				Tier II - 2%		NO		Tier II - 2%	
Local Vendor Preference Adjusted				\$125,195.00		\$136,000.00		\$136,587.50	
Ranking				4		5		6	
ADDITIONAL BID ITEMS									
A1	Clean Fill Dirt	1,000	Cu. Yd.	\$9.00	\$9,000.00	\$12.00	\$12,000.00	\$10.00	\$10,000.00
A2	Septic Tank Abandonment	5	Each	\$1,250.00	\$6,250.00	\$600.00	\$3,000.00	\$750.00	\$3,750.00
A3	Demolition Cancellation prior to mobilization	1	Each	\$250.00	\$250.00	\$100.00	\$100.00	\$250.00	\$250.00
A4	Demoliation caccellation after mobilizatino	1	Each	\$950.00	\$950.00	\$800.00	\$800.00	\$250.00	\$250.00
A5	Emergency Mobi., in addition to other charges	1	Each	\$1,200.00	\$1,200.00	\$800.00	\$800.00	\$250.00	\$250.00
A6	Mobi for septic tank removal if unable to locate or instructed to cease attempt to locate	1	Each	\$600.00	\$600.00	\$800.00	\$800.00	\$250.00	\$250.00
A7	Mono Pole and Foundation Removal	5	LF	\$400.00	\$2,000.00	\$100.00	\$500.00	\$10.00	\$50.00
A8	Asbestos Survey - Written	1	Each		\$0.00	\$825.00	\$825.00	No Bid	No Bid
A9	Pumping of Swimming Pool	1	Each	\$500.00	\$500.00	\$500.00	\$500.00	\$175.00	\$175.00
A10	Demolish and remove in-ground concrete pool empty or filled with water	100	Sq. Ft.	\$35.00	\$3,500.00	\$10.00	\$1,000.00	\$16.00	\$1,600.00
A11	Demolish and remove in-ground fiberglass pool empty or filled with water.	100	Sq. Ft.	\$20.00	\$2,000.00	\$8.00	\$800.00	\$16.00	\$1,600.00
A12	Demolish and remove above ground pool empty or filled with water	100	Sq. Ft.	\$15.00	\$1,500.00	\$3.00	\$300.00	\$10.00	\$1,000.00
A13	Excavate dirt, demolish and remove in-ground concrete pool filled with dirt	100	Sq. Ft.	\$55.00	\$5,500.00	\$13.00	\$1,300.00	\$20.00	\$2,000.00
A14	Excavate dirt, demolish and remove in-ground fiberglass pool filled with dirt	100	Sq. Ft.	\$45.00	\$4,500.00	\$13.00	\$1,300.00	\$20.00	\$2,000.00
A15	Demolish and remove wood fencing	100	LF	\$3.00	\$300.00	\$2.00	\$200.00	\$1.00	\$100.00
A16	Demolish and removal metal fencing to include chain link	100	LF	\$2.00	\$200.00	\$1.00	\$100.00	\$1.00	\$100.00
A17	Demolition Permit Obtained by Contractor	1	Each	\$156.40	\$156.40	\$156.40	\$156.40	\$156.40	\$156.40
A18	Tipping Fee - Current Price - City will reimburse contractor at actual cost	1,000	Ton	\$6.00	\$6,000.00	\$6.00	\$6,000.00	\$45.00	\$45,000.00

VENDOR NAME	EKG Enterprises, Inc.	Johnson's Excavation & Services, Inc.	Greenwood & Son Contracting, Inc.
VENODR LOCATION	Clermont, FL	Plant City, FL	Grand Island, FL
SEALED BID RESONSIVE REVIEW SUMMARY			
IS THE BIDDER DETERMINED TO BE RESPONSIBLE	YES ¹	YES ¹	YES ¹
IS THE BID DETERMINED TO BE RESPONSIVE	YES	YES	YES
General Vendor Information	YES	YES	YES
Credit Card as Payment	YES	YES	YES
Item Bid Schedule	YES	YES	YES
Bidders Certification	YES	YES	YES
Exceptions	NONE	NONE	YES ³
Acknowledgement of Addendum No. 1	YES	YES	YES
Sub-Contractor Listing	YES	YES	YES
Equipment Listing	YES	YES	YES
Statement of Experience	YES	YES	YES
Contractors License Verified	CGC1507391	CBC059540	Cert No. 10070
FEIN Number	57-1144312	59-3031174	20-2905580
Registered State of Florida	YES	YES	YES
Note 1: Responsible determined based solely on information requested			
Note 2: Acknowledgemetn of Addednum 1 was not required.			

This Final Bid Tabulation was reviewed and approved by:



Mike Thornton , Purchasing Manager

VENDOR NAME				Simpson Environmental Servcies, Inc.		Metro Rural Construction	
VENODR LOCATION				Dade City, FL		Leesburg, FL	
ITEM	BASE BID ITEMS ITEM DESCRIPTION	Quantity	UOM	Unit Cost	Extended Cost	Unit Cost	Extended Cost
1.0	Demolish/Dispose of Predominately Wood Frame Structure not on concrete slab	15,000	Sq. Ft.	\$5.00	\$75,000.00	\$4.93	\$73,950.00
2.0	Demolish/Dispose of Predominately Wood Frame Structure on concrete slab	15,000	Sq. Ft.	\$5.00	\$75,000.00	\$5.59	\$83,850.00
3.0	Demolish/Dispose of Predominately Concrete Block Structure assumes concrete slab	7,500	Sq. Ft.	\$4.25	\$31,875.00	\$5.71	\$42,825.00
4.0	Demolish/Dispose of Predominately Metal/Steel Structure	5,000	Sq. Ft.	\$1.00	\$5,000.00	\$7.40	\$37,000.00
5.0	Demolish/Dispose of Concrete slab and footer for item 4.0	3,000	Sq. Ft.	\$3.00	\$9,000.00	\$0.66	\$1,980.00
5.0	Demolish/Dispose of Surface Improvements (pool deck, driveways, sidewalks, slabs)	1,000	Sq. Ft.	\$2.00	\$2,000.00	\$1.30	\$1,300.00
7.0	Seed and Straw when requested	100,000	Sq. Ft.	\$0.50	\$50,000.00	\$0.24	\$24,000.00
TOTAL BASE BID ITEMS				\$247,875.00		\$264,905.00	
Local Vendor Preference				NO		Tier I - 5%	
Local Vendor Preference Adjusted				\$247,875.00		\$251,659.75	
Ranking				7		8	
ADDITIONAL BID ITEMS							
A1	Clean Fill Dirt	1,000	Cu. Yd.	\$18.00	\$18,000.00	\$9.00	\$9,000.00
A2	Septic Tank Abandonment	5	Each	\$750.00	\$3,750.00	\$1,800.00	\$9,000.00
A3	Demolition Cancellation prior to mobilization	1	Each	\$500.00	\$500.00	\$500.00	\$500.00
A4	Demoliation caccellation after mobilizatino	1	Each	\$1,000.00	\$1,000.00	\$2,000.00	\$2,000.00
A5	Emergency Mobi., in addition to other charges	1	Each	\$2,500.00	\$2,500.00	\$1,000.00	\$1,000.00
A6	Mobi for septic tank removal if unable to locate or instructed to cease attempt to locate	1	Each	\$2,500.00	\$2,500.00	\$1,000.00	\$1,000.00
A7	Mono Pole and Foundation Removal	5	LF	\$1,600.00	\$8,000.00	\$10.00	\$50.00
A8	Asbestos Survey - Written	1	Each	\$1,800.00	\$1,800.00	\$4,000.00	\$4,000.00
A9	Pumping of Swimming Pool	1	Each	\$500.00	\$500.00	\$1,000.00	\$1,000.00
A10	Demolish and remove in-ground concrete pool empty or filled with water	100	Sq. Ft.	\$40.00	\$4,000.00	\$65.00	\$6,500.00
A11	Demolish and remove in-ground fiberglass pool empty or filled with water.	100	Sq. Ft.	\$35.00	\$3,500.00	\$65.00	\$6,500.00
A12	Demolish and remove above ground pool empty or filled with water	100	Sq. Ft.	\$20.00	\$2,000.00	\$35.00	\$3,500.00
A13	Excavate dirt, demolish and remove in-ground concrete pool filled with dirt	100	Sq. Ft.	\$40.00	\$4,000.00	\$65.00	\$6,500.00
A14	Excavate dirt, demolish and remove in-ground fiberglass pool filled with dirt	100	Sq. Ft.	\$35.00	\$3,500.00	\$65.00	\$6,500.00
A15	Demolish and remove wood fencing	100	LF	\$3.00	\$300.00	\$10.00	\$1,000.00
A16	Demolish and removal metal fencing to include chain link	100	LF	\$3.00	\$300.00	\$5.00	\$500.00
A17	Demolition Permit Obtained by Contractor	1	Each	\$156.40	\$156.40	\$156.40	\$156.40
A18	Tipping Fee - Current Price - City will reimburse contractor at actual cost	1,000	Ton	\$0.10	\$100.00	\$28.00	\$28,000.00

VENDOR NAME	Simpson Environmental Servcies, Inc.	Metro Rural Construction
VENODR LOCATION	Dade City, FL	Leesburg, FL
SEALED BID RESONSIVE REVIEW SUMMARY		
IS THE BIDDER DETERMINED TO BE RESPONSIBLE	YES ¹	YES ¹
IS THE BID DETERMINED TO BE RESPONSIVE	YES	YES
General Vendor Information	YES	YES
Credit Card as Payment	YES	NO
Item Bid Schedule	YES	YES
Bidders Certification	YES	YES
Exceptions	NONE	NONE
Acknowledgement of Addendum No. 1	NO ²	NO ²
Sub-Contractor Listing	YES	YES
Equipment Listing	YES	YES
Statement of Experience	YES	YES
Contractors License Verified	CGC1509069	CGC1523258
FEIN Number	71-0957279	47-2498353
Registered State of Florida	YES	YES

Note 1: Responsible determined based solely on information requested

Note 2: Acknowledgemetn of Addednum 1 was not required.

This Final Bid Tabulation was reviewed and approved by:



Mike Thornton , Purchasing Manager

RESOLUTION NO. _____

RESOLUTION OF THE CITY COMMISSION OF THE CITY OF
LEESBURG, FLORIDA AUTHORIZING THE MAYOR AND CITY
CLERK TO EXECUTE A FIXED UNIT PRICE SERVICES
AGREEMENT WITH WHM FOUNDATION STABILIZATION,
LLC AS THE PRIMARY CONTRACTOR TO PROVIDE
STRUCTURE DEMOLITION AND RELATED SERVICES; AND
PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LEESBURG,
FLORIDA:

THAT the Mayor and City Clerk are hereby authorized to execute an agreement
with WHM FOUNDATION STABILIZATION, LLC whose address is 5914 Dasher Court,
Port Richey, Florida, 34668 (email address: whmfoundation@yahoo.com) for Structure
Demolition and Related Services pursuant to Invitation to Bid 160021.

THAT this resolution shall become effective immediately.

PASSED AND ADOPTED by the City Commission of the City of Leesburg, Florida, at a
regular meeting held the 7th day of December 2015.

Mayor

ATTEST:

City Clerk

FIXED UNIT PRICE SERVICES AGREEMENT

THIS AGREEMENT is made as of the 7th day of December in the year 2015, between **THE CITY OF LEESBURG, FLORIDA**, whose address is 501 West Meadow Street, Post Office Box 490630, Leesburg, Florida 34749-0630 (hereinafter referred to as the "CITY"), and **WHM FOUNDATION STABILIZATION, LLC** whose address is 5914 Dasher Court, Port Richey, Florida, 34668 (hereinafter referred to as the "CONTRACTOR").

NOW, THEREFORE, in consideration of the mutual benefits accruing to the parties to this Agreement, and for other good and valuable considerations, the parties agree as follows:

1. Services. The CONTRACTOR shall provide and deliver the following Services: Structure Demolition and Related Services as specified in accordance with **EXHIBIT "A"**. CONTRACTOR shall serve as the Primary contractor for these services. Should CONTRACTOR be unable or unwilling to accept work from the CITY, CITY shall contact the Secondary or Alternate Contractor for these services. Nothing herein shall limit the CITY'S right to obtain these services from other contractors. The services to be provided under this agreement shall be performed for the unit costs cited in **EXHIBIT "B"**. Said price includes all labor, equipment, materials and performance.

2. Labor and Materials. All work will be done in a competent and workmanlike manner, using quality materials in accordance with the specifications.

3. Insurance. The CONTRACTOR will maintain throughout this Agreement the following insurance: SEE EXHIBIT "A".

- i. The original of each such policy of insurance, or a complete duplicate, shall be delivered to the CITY by CONTRACTOR prior to starting work, together with evidence that the premiums have been paid.
- ii. All required insurance shall be provided by insurers acceptable to the CITY with an A.M. Best rating of at least "A."
- iii. The CONTRACTOR shall require, and shall be responsible for assuring that any and all of its subcontractors secure and maintain such insurance that are required by law to be provided on behalf of their employees and others until the completion of that subcontractor's work.
- iv. The required insurance shall be secured and maintained for not less than the limits required by the CITY, or as required by law, whichever is greater.
- v. The required insurance shall not limit the liability of the CONTRACTOR. The CITY does not represent these coverages or amounts to be adequate or sufficient to protect the CONTRACTOR'S interests or liabilities, but are merely required minimums.
- vi. All liability insurance, except professional liability, shall be written on an occurrence basis.

- vii. The CONTRACTOR waives its right of recovery against the CITY to the extent permitted by its insurance policies.
- viii. Insurance required of the CONTRACTOR, or any other insurance of the CONTRACTOR shall be considered primary, and insurance of the CITY, if any, shall be considered excess as applicable to any claims, which arise out of the agreement, contract or lease.
- ix. Except for works' compensation and professional liability, the CONTRACTOR'S insurance policies shall be endorsed to name the CITY OF LEESBURG as additional insured to the extent of the agreement, contract or lease.
- x. The Certificate(s) of Insurance shall designate the CITY as certificate holder as follows:

City of Leesburg
Attention: Mike Thornton, Purchasing Manager
P.O. Box 490630
Leesburg, Florida 34749-0630

- xi. The Certificate(s) of Insurance shall include a reference to the project and/or purchase order number.
- xii. The Certificate(s) of Insurance shall indicate that the CITY shall be notified at least thirty (30) days in advance of cancellation.
- xiii. The Certificate(s) of Insurance shall include all deductibles and/or self-insurance retentions for each line of insurance coverage.
- xiv. The CONTRACTOR, at the discretion of the Risk Manager for the CITY, shall provide information regarding the amount of claims payments or reserves chargeable to the aggregate amount of the CONTRACTOR'S liability coverage(s).

4. Indemnification. The CONTRACTOR agrees to make payment of all proper charges for labor required in the aforementioned work and CONTRACTOR shall indemnify CITY and hold it harmless from and against any loss or damage, claim or cause of action, and any attorneys' fees and court costs, arising out of: any unpaid bills for labor, services or materials furnished to this project; any failure of performance of CONTRACTOR under this Contract; or the negligence of the CONTRACTOR in the performance of its duties under this Contract, or any act or omission on the part of the CONTRACTOR, his agents, employees, or servants. CONTRACTOR shall defend, indemnify, and save harmless the CITY or any of their officers, agents, or servants and each and every one of them against and from all claims, suits, and costs of every kind and description, including attorney's fees, and from all damages to which the CITY or any of their officers, agents, or servants may be put by reason of injury to the persons or property of others resulting from the performance of CONTRACTOR'S duties under this Contract, or through the negligence of the CONTRACTOR in the performance of its duties under this Contract, or through any act or omission on the part of the CONTRACTOR, his agents, employees, or servants.

If, however, this agreement is a “construction contract” as defined in and encompassed by the provision of Florida Statutes § 725.06, then the following shall apply in place of the aforementioned indemnification provision:

The CONTRACTOR shall indemnify the CITY and hold it, its officers, and its employees harmless from liabilities, losses, and costs, including, but not limited to, reasonable attorney’s fees to the extent caused by the negligence, recklessness, or intentional wrongful conduct of the CONTRACTOR and persons employed or utilized by the CONTRACTOR in the performance of this Agreement. The liability of the CONTRACTOR shall, however, be limited to one million and 00/100 dollars (\$1,000,000.00) per occurrence, and the obligation of the CONTRACTOR to indemnify the CITY shall be limited to acts, omissions, or defaults of the CONTRACTOR; any contractors, subcontractors, sub-subcontractors, material men, or agents or employees of any of them, providing labor, services or materials in connection with the project; and the CITY, its officers, agents and employees, provided however that the CONTRACTOR shall not be obligated to indemnify the CITY against losses arising from the gross negligence, or willful, wanton, or intentional misconduct of the CITY, its officers, agents and employees, or against statutory violations or punitive damages except to the extent caused by or resulting from the acts or omissions of the CONTRACTOR, or any contractors, subcontractors, sub-subcontractors, material men, or agents or employees of any of them, providing labor, services, or materials in connection with this Agreement.

5. Codes, Laws, and Regulations. CONTRACTOR will comply with all applicable codes, laws, regulations, standards, and ordinances in force during the term of this Agreement.

6. Permits, Licenses, and Fees. CONTRACTOR will obtain and pay for all permits and licenses required by law that are associated with the CONTRACTOR'S performance of the Scope of Services.

7. Termination for Default. If, through any cause, the CONTRACTOR shall fail to fulfill in a timely and proper manner its obligations under this Agreement, other than for the instances listed below due to “Force Majeure,” the CITY shall thereupon have the right to terminate this Agreement by providing a written notice (show cause notice) to the CONTRACTOR requiring a written response due within FIVE (5) calendar days from receipt of the written notice as to why the Agreement should not be terminated for default. The CITY’s show cause notice shall include an Agreement termination date at least SEVEN (7) calendar days subsequent to the due date for the CONTRACTOR’s response. Should the CONTRACTOR fail to respond to such show cause notice, or if the CITY determines that the reasons provided by the CONTRACTOR for failure of the CONTRACTOR to fulfill its contractual obligations do not justify continuation of the contractual relationship, the Agreement shall be considered to have been terminated for default on the date indicated in the show cause notice. Should the CITY determine that the CONTRACTOR provided adequate justification that a termination for default is not appropriate under the circumstances; the CITY shall have a unilateral option to either

continue the Agreement according to the original contract provisions or to terminate the contract for convenience. In the event that the CITY terminates the contract for default, all finished or unfinished deliverable items under this contract prepared by the CONTRACTOR shall, at the option of the CITY, become CITY property, and the CONTRACTOR shall be entitled to receive just and equitable compensation for any satisfactory work completed on such materials. Notwithstanding this compensation, the CONTRACTOR shall not be relieved of liability to the CITY for damages sustained by the CITY by virtue of any breach of this Agreement, and the CITY may withhold any payment due the CONTRACTOR for the purpose of set-off until such time as the exact amount of damages due the CITY from such breach can be determined.

In addition, in the event of default by the CONTRACTOR under this Agreement, the CITY may immediately cease doing business with the CONTRACTOR, immediately terminate for cause all existing Agreements the CITY has with the CONTRACTOR, and debar the CONTRACTOR from doing future business with the CITY.

Upon the CONTRACTOR filing a petition for bankruptcy or the entering of a judgment of bankruptcy by or against the CONTRACTOR, the CITY may immediately terminate, for cause, this Agreement and all other existing agreements the CONTRACTOR has with the CITY, and debar the CONTRACTOR from doing future business with the CITY.

The CITY may terminate this Agreement for cause without penalty or further obligation at any time following Agreement execution, if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on behalf of the CITY is at any time while the Agreement or any extension thereof is in effect, an employee or agent of any other party to the Agreement in any capacity or consultant to any other party of the Agreement with respect to the subject matter of the Agreement. Additionally, the CITY may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating the Agreement on behalf of the CITY from any other party to the Agreement.

Two (2) instances of refusing to accept/respond to a request for services within a twelve (12) month period constitutes an Event of Default and shall be subject to the City exercising its right to terminate for cause immediately upon written notice.

8. Force Majeure. Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by any act of war, hostile foreign action, nuclear explosion, riot, strikes, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God. Should there be such an occurrence that impacts the ability of either party to perform their responsibilities under this contract, the nonperforming party shall give immediate written notice to the other party to explain the cause and probable duration of any such nonperformance.

9. Termination for Convenience. The CITY may terminate this Agreement at any time without cause by providing the CONTRACTOR with FIFTEEN (15) calendar days advance

notice in writing. In the event of termination for convenience, all finished or unfinished deliverable items prepared by the CONTRACTOR under this Agreement shall, at the option of the CITY, become the CITY's property. If the Agreement is terminated for convenience by the CITY as provided herein, the CONTRACTOR shall be paid for services satisfactorily completed, less payment or compensation previously made. The CONTRACTOR shall not incur any additional expenses after receiving the written termination notice.

10. Access to Records. CONTRACTOR will maintain accounting records, in accordance with generally accepted accounting principles and practices, to substantiate all invoiced amounts. Said records will be available for examination by the CITY during CONTRACTOR'S normal business hours. Said records will be maintained for a period of three (3) years after the date of the invoice.

11. Contingent Fees Prohibited. The CONTRACTOR warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR, to solicit or secure this Agreement and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONTRACTOR any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. In the event of a breach of this provision, the CITY shall have the right to terminate this Agreement without further liability and at its discretion, deduct from the contract price, or otherwise recover, the full amount of any such fee, commission, percentage, gift or consideration paid in breach of this Agreement.

12. Payment. CITY shall compensate CONTRACTOR for their services, at a minimum, in accordance with the State of Florida prompt payment act. If payment is by:

- i. Paper Check – Payment terms will be Net 30 days from the date a correct and accurate invoice is presented to the CITY;
- ii. Purchasing Card – If CONTRACTOR accepts payment by purchasing card (Credit Card) payment will be made no later than 7 days from the date a correct and accurate invoice is presented to the CITY. Payment by Purchasing Card will be at the Contracted unit price amounts and no additional charges or convenience fees will be added to the invoice or payment.

13. Ownership of Documents. All data, specifications, calculations, estimates, plans, drawings, construction documents, photographs, summaries, reports, memoranda, and other documents, instruments, information and material prepared or accumulated by the CONTRACTOR (or by such sub-consultants and specialty consultants) in rendering services hereunder shall be the sole property of the CITY who may have access to the reproducible copies at no additional cost other than printing. Provided, that the CONTRACTOR shall in no way be liable or legally responsible to anyone for the CITY'S use of any such materials for another

PROJECT, or following termination. All original documents shall be permanently kept on file at the office of the CONTRACTOR.

14. Independent Contractor. The CONTRACTOR agrees that he or she is an independent contractor and not an agent, joint venture, or employee of the CITY, and nothing in this Agreement shall be construed to be inconsistent with this relationship or status. None of the benefits provided by the CITY to its employees, including but not limited to, workers' compensation insurance, unemployment insurance, or retirement benefits, are available from the CITY to the CONTRACTOR. CONTRACTOR will be responsible for paying his own Federal income tax and self-employment tax, or any other taxes applicable to the compensation paid under this Agreement. The CONTRACTOR shall be solely and primarily responsible for his and her acts during the performance of this Agreement.

15. Assignment. Neither party shall have the power to assign any of the duties or rights or any claim arising out of or related to the Agreement, whether arising in tort, contract, or otherwise, without the written consent of the other party. These conditions and the entire Agreement are binding on the heirs, successors, and assigns of the parties hereto.

16. No Third Party Beneficiaries. This Agreement gives no rights or benefits to anyone other than the CONTRACTOR and the CITY.

17. Jurisdiction. The laws of the State of Florida shall govern the validity of this Agreement, its interpretation and performance, and any other claims related to it. In the event of any litigation arising under or construing this Agreement, venue shall lie only in Lake County, Florida.

18. Term and Termination. The initial term of this Agreement shall be for a period of two (2) years from the date of award and includes an option to renew the Agreement for additional terms not to exceed an aggregate of two (2) additional years. All or part of this Agreement may be terminated by the CITY for its convenience on fifteen (15) days written notice to the CONTRACTOR. In such event, the CONTRACTOR will be entitled to compensation for services competently performed up to the date of termination.

19. Successive Year Cost Adjustments. Prices shall remain firm for all orders placed during the initial year of the contract; price escalation may be allowed only in accordance with the following provision.

- i. **Cost Adjustments** - The cost for all items as contained herein shall remain firm for the first year of the contract. Costs for subsequent years and any extension term years shall be subject to an adjustment only if increases occur in the industry. However, unless very unusual and significant changes have occurred in the industry, such increases shall not exceed 5% per year. The services provided under this Agreement would be affected primarily by increases to fuel and labor.

Any requested cost increase shall be fully documented and submitted to the City at least ninety (60) days prior to the contract anniversary date. Any approved cost adjustments shall become effective upon the anniversary date of the contract. The City may, after examination, refuse to accept the adjusted costs if they are not properly documented or increases are considered to be excessive. In the event the City does not wish to accept the adjusted costs and the matter cannot be resolved to the satisfaction of the City, the contract can be terminated by the City upon giving thirty (30) days written notice to the Contractor.

20. Non-appropriation. The CONTRACTOR understands and agrees that this Contract is subject to the availability of funds to the CITY to purchase the specified products/services. As used herein, a “nonappropriation” shall be defined as an occurrence wherein the CITY, in any fiscal period, does not allocate funds in its budget for the purchase of the specified products/services or other amounts owed pursuant to this Contract, from the source of funding which the CITY anticipates using to pay its obligations hereunder, and the CITY has no other funds, from sources another than ad valorem taxes, which it deems to be available to pay its obligations under this Contract. The CITY may terminate this Contract, with no further liability to the CONTRACTOR, effective the first day of a fiscal period provided a non-appropriation has occurred and the CITY has provided the CONTRACTOR with written notice of termination, not less than fifteen (15) days before he proposed termination date.

Upon the occurrence of such nonappropriation the CITY shall not be obligated for payment for any fiscal period for which funds have not been appropriated.

21. Contact Person. The primary contact person under this Agreement for the CONTRACTOR shall be **Maria Hindman, Manager**. The primary contact person under this Agreement for the CITY shall be **Mike Thornton, Purchasing Manager**.

22. Approval of Personnel. The CITY reserves the right to approve the contact person and the persons actually performing the services on behalf of CONTRACTOR pursuant to this Agreement. If CITY, in its sole discretion, is dissatisfied with the contact person or the person or persons actually performing the services on behalf of CONTRACTOR pursuant to this Agreement, CITY may require CONTRACTOR assign a different person or persons be designated to be the contact person or to perform the CONTRACTOR services hereunder.

23. Disclosure of Conflict. The CONTRACTOR has an obligation to disclose to the CITY any situation that, while acting pursuant to this Agreement, would create a potential conflict of interest between the CONTRACTOR and his duties under this Agreement.

24. Counterparts. Original signatures transmitted and received via facsimile or other electronic transmission of a scanned document, (e.g., PDF or similar format) are true and valid signatures for all purposes hereunder and shall bind the parties to the same extent as that of an original signature. Any such facsimile or electronic mail transmission shall constitute the final

agreement of the parties and conclusive proof of such agreement. Any such electronic counterpart shall be of sufficient quality to be legible either electronically or when printed as hardcopy. The CITY shall determine legibility and acceptability for public record purposes. This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original and all of which shall constitute the same instrument.

25. Authority to Obligate. Each person signing this agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and bind and obligate such party with respect to all provisions contained in this agreement.

[Signature page follows.]

WITNESS WHEREOF parties hereto executed Agreement indicated preamble Agreement.

CITY LEESBURG, FLORIDA

Dennison, Mayor

TEST

APPROVED FORM

Attorney

WINE FOUNDATION
ABILIZATION.

Mark

Printed: MARIN ANDERSON

MCRA
(Title)

EXHIBIT “A”

SCOPE OF SERVICES

- I. **Work.** CONTRACTOR shall perform all work in accordance with the Contract Documents for furnishing Dumpster Refurbishing services as required by ITB 160021.
- II. **Incorporation of Sections.** The following sections of the Invitation to Bid 160021 document are incorporated by reference and made a part hereof:
 - a. Section 1 - Special Terms & Conditions,
 - b. Section 2 - Scope of Work,
 - c. Section 3 - General Terms & Conditions, and
 - d. Section 5 - City Forms as completed and submitted by CONTRACTOR.
- III. **Bid Submittal.** The original November 24, 2015 bid submittal from the Contractor is incorporated by reference and made a part hereof.
- IV. **Contract Prices** - Contracted unit prices submitted by the vendor are attached as **EXHIBIT “B”** and are incorporated by reference and made a part hereof.

[Rest of page intentionally left blank.]

EXHIBIT “B”

BASE BID ITEMS

Item	Description	Unit of Measure	Contracted Unit Price
1.0	Demolish/Dispose of Predominately Wood Frame Structure not on concrete slab	Square Foot (SF)	\$1.50
2.0	Demolish/Dispose of Predominately Wood Frame Structure on concrete slab	SF	\$1.65
3.0	Demolish/Dispose of Predominately Concrete Block Structure assumes concrete slab	SF	\$1.75
4.0	Demolish/Dispose of Predominately Metal/Steel Structure	SF	\$1.45
4.1	Demolish/Dispose of concrete slab and footer for item 4.0.	SF	\$1.20
5.0	Demolish/Dispose of Surface Improvements (pool deck, driveways, sidewalks, slabs)	SF	\$1.00
6.0	Seed and Straw when requested.	SF	\$0.20

ADDITIONAL BID ITEMS

Item	Description	Unit of Measure	Bid Unit Price
A1	Clean Fill Dirt	Cubic Yard	\$10.00
A2	Septic Tank Abandonment	Each	\$500.00
A3	Demolition cancellation prior to mobilization	Each	\$0.00
A4	Demolition cancellation after mobilization	Each	\$0.00
A5	Emergency Mobilization, in addition to other charges	Each	\$0.00
A6	Mobilization for septic tank removal if unable to locate or instructed to cease attempt to locate.	EA	\$300.00
A7	Mono Pole and Foundation Removal	LF	\$300.00
A8	Asbestos Survey – Written	Each	\$500.00
A9	Pumping of Swimming Pool	Each	\$100.00
A10	Demolish and remove in-ground concrete pool empty or filled with water	SF	\$1.50
A11	Demolish and remove in-ground fiberglass pool empty or filled with water	SF	\$1.50
A12	Demolish and remove above ground pool empty or filled with water	SF	\$1.00
A13	Excavate dirt, demolish and remove in-ground concrete pool	SF	\$2.00

Item	Description	Unit of Measure	Bid Unit Price
	filled with dirt		
A14	Excavate dirt, demolish and remove in-ground fiberglass pool filled with dirt	SF	\$2.00
A15	Demolish and remove wood fencing	LF	\$1.20
A16	Demolish and removal metal fencing to include chain link	LF	\$0.00
A17	Demolition Permit Obtained by Contractor from Leesburg Building Services.	Each	Reimbursed At Actual Cost
A18	Tipping fees for waste disposal resulting from ordered demolition work. Unit may vary depending on disposal site.	Ton	Reimbursed At Actual Cost

[Rest of page intentionally left blank.]

RESOLUTION NO. _____

RESOLUTION OF THE CITY COMMISSION OF THE CITY OF
LEESBURG, FLORIDA AUTHORIZING THE MAYOR AND CITY
CLERK TO EXECUTE A FIXED UNIT PRICE SERVICES
AGREEMENT WITH CROSS ENVIRONMENTAL SERVICES,
INC. AS THE SECONDARY CONTRACTOR TO PROVIDE
STRUCTURE DEMOLITION AND RELATED SERVICES; AND
PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LEESBURG,
FLORIDA:

THAT the Mayor and City Clerk are hereby authorized to execute an agreement
with CROSS ENVIRONMENTAL SERVICES, INC. whose address is 39646 Fig Avenue,
Zephyrhills, Florida 33540 (email address: rmonk@crossenv.com) for Structure Demolition
and Related Services as the secondary contractor pursuant to Invitation to Bid 160021.

THAT this resolution shall become effective immediately.

PASSED AND ADOPTED by the City Commission of the City of Leesburg, Florida, at a
regular meeting held the 7th day of December 2015.

Mayor

ATTEST:

City Clerk

FIXED UNIT PRICE SERVICES AGREEMENT

THIS AGREEMENT is made as of the 7th day of December in the year 2015, between **THE CITY OF LEESBURG, FLORIDA**, whose address is 501 West Meadow Street, Post Office Box 490630, Leesburg, Florida 34749-0630 (hereinafter referred to as the "CITY"), and **CROSS ENVIRONMENTAL SERVICES, INC.** whose address is 39646 Fig Avenue, Zephyrhills, Florida 33540 (hereinafter referred to as the "CONTRACTOR").

NOW, THEREFORE, in consideration of the mutual benefits accruing to the parties to this Agreement, and for other good and valuable considerations, the parties agree as follows:

1. Services. The CONTRACTOR shall provide and deliver the following Services: Structure Demolition and Related Services as specified in accordance with **EXHIBIT "A"**. CONTRACTOR shall serve as the Secondary or Alternate Contractor for these services. Should the Primary Contractor be unable or unwilling to accept work from the CITY, the CITY shall contact the Secondary or Alternate Contractor. Nothing herein shall limit the CITY'S right to obtain these services from other contractors. The services to be provided under this agreement shall be performed for the unit costs cited in **EXHIBIT "B"**. Said price includes all labor, equipment, materials and performance.

2. Labor and Materials. All work will be done in a competent and workmanlike manner, using quality materials in accordance with the specifications.

3. Insurance. The CONTRACTOR will maintain throughout this Agreement the following insurance: SEE EXHIBIT "A".

- i. The original of each such policy of insurance, or a complete duplicate, shall be delivered to the CITY by CONTRACTOR prior to starting work, together with evidence that the premiums have been paid.
- ii. All required insurance shall be provided by insurers acceptable to the CITY with an A.M. Best rating of at least "A."
- iii. The CONTRACTOR shall require, and shall be responsible for assuring that any and all of its subcontractors secure and maintain such insurance that are required by law to be provided on behalf of their employees and others until the completion of that subcontractor's work.
- iv. The required insurance shall be secured and maintained for not less than the limits required by the CITY, or as required by law, whichever is greater.
- v. The required insurance shall not limit the liability of the CONTRACTOR. The CITY does not represent these coverages or amounts to be adequate or sufficient to protect the CONTRACTOR'S interests or liabilities, but are merely required minimums.
- vi. All liability insurance, except professional liability, shall be written on an occurrence basis.

- vii. The CONTRACTOR waives its right of recovery against the CITY to the extent permitted by its insurance policies.
- viii. Insurance required of the CONTRACTOR, or any other insurance of the CONTRACTOR shall be considered primary, and insurance of the CITY, if any, shall be considered excess as applicable to any claims, which arise out of the agreement, contract or lease.
- ix. Except for works' compensation and professional liability, the CONTRACTOR'S insurance policies shall be endorsed to name the CITY OF LEESBURG as additional insured to the extent of the agreement, contract or lease.
- x. The Certificate(s) of Insurance shall designate the CITY as certificate holder as follows:

City of Leesburg
Attention: Mike Thornton, Purchasing Manager
P.O. Box 490630
Leesburg, Florida 34749-0630

- xi. The Certificate(s) of Insurance shall include a reference to the project and/or purchase order number.
- xii. The Certificate(s) of Insurance shall indicate that the CITY shall be notified at least thirty (30) days in advance of cancellation.
- xiii. The Certificate(s) of Insurance shall include all deductibles and/or self-insurance retentions for each line of insurance coverage.
- xiv. The CONTRACTOR, at the discretion of the Risk Manager for the CITY, shall provide information regarding the amount of claims payments or reserves chargeable to the aggregate amount of the CONTRACTOR'S liability coverage(s).

4. Indemnification. The CONTRACTOR agrees to make payment of all proper charges for labor required in the aforementioned work and CONTRACTOR shall indemnify CITY and hold it harmless from and against any loss or damage, claim or cause of action, and any attorneys' fees and court costs, arising out of: any unpaid bills for labor, services or materials furnished to this project; any failure of performance of CONTRACTOR under this Contract; or the negligence of the CONTRACTOR in the performance of its duties under this Contract, or any act or omission on the part of the CONTRACTOR, his agents, employees, or servants. CONTRACTOR shall defend, indemnify, and save harmless the CITY or any of their officers, agents, or servants and each and every one of them against and from all claims, suits, and costs of every kind and description, including attorney's fees, and from all damages to which the CITY or any of their officers, agents, or servants may be put by reason of injury to the persons or property of others resulting from the performance of CONTRACTOR'S duties under this Contract, or through the negligence of the CONTRACTOR in the performance of its duties under this Contract, or through any act or omission on the part of the CONTRACTOR, his agents, employees, or servants.

If, however, this agreement is a “construction contract” as defined in and encompassed by the provision of Florida Statutes § 725.06, then the following shall apply in place of the aforementioned indemnification provision:

The CONTRACTOR shall indemnify the CITY and hold it, its officers, and its employees harmless from liabilities, losses, and costs, including, but not limited to, reasonable attorney’s fees to the extent caused by the negligence, recklessness, or intentional wrongful conduct of the CONTRACTOR and persons employed or utilized by the CONTRACTOR in the performance of this Agreement. The liability of the CONTRACTOR shall, however, be limited to one million and 00/100 dollars (\$1,000,000.00) per occurrence, and the obligation of the CONTRACTOR to indemnify the CITY shall be limited to acts, omissions, or defaults of the CONTRACTOR; any contractors, subcontractors, sub-subcontractors, material men, or agents or employees of any of them, providing labor, services or materials in connection with the project; and the CITY, its officers, agents and employees, provided however that the CONTRACTOR shall not be obligated to indemnify the CITY against losses arising from the gross negligence, or willful, wanton, or intentional misconduct of the CITY, its officers, agents and employees, or against statutory violations or punitive damages except to the extent caused by or resulting from the acts or omissions of the CONTRACTOR, or any contractors, subcontractors, sub-subcontractors, material men, or agents or employees of any of them, providing labor, services, or materials in connection with this Agreement.

5. Codes, Laws, and Regulations. CONTRACTOR will comply with all applicable codes, laws, regulations, standards, and ordinances in force during the term of this Agreement.

6. Permits, Licenses, and Fees. CONTRACTOR will obtain and pay for all permits and licenses required by law that are associated with the CONTRACTOR'S performance of the Scope of Services.

7. Termination for Default. If, through any cause, the CONTRACTOR shall fail to fulfill in a timely and proper manner its obligations under this Agreement, other than for the instances listed below due to “Force Majeure,” the CITY shall thereupon have the right to terminate this Agreement by providing a written notice (show cause notice) to the CONTRACTOR requiring a written response due within FIVE (5) calendar days from receipt of the written notice as to why the Agreement should not be terminated for default. The CITY’s show cause notice shall include an Agreement termination date at least SEVEN (7) calendar days subsequent to the due date for the CONTRACTOR’s response. Should the CONTRACTOR fail to respond to such show cause notice, or if the CITY determines that the reasons provided by the CONTRACTOR for failure of the CONTRACTOR to fulfill its contractual obligations do not justify continuation of the contractual relationship, the Agreement shall be considered to have been terminated for default on the date indicated in the show cause notice. Should the CITY determine that the CONTRACTOR provided adequate justification that a termination for default is not appropriate under the circumstances; the CITY shall have a unilateral option to either

continue the Agreement according to the original contract provisions or to terminate the contract for convenience. In the event that the CITY terminates the contract for default, all finished or unfinished deliverable items under this contract prepared by the CONTRACTOR shall, at the option of the CITY, become CITY property, and the CONTRACTOR shall be entitled to receive just and equitable compensation for any satisfactory work completed on such materials. Notwithstanding this compensation, the CONTRACTOR shall not be relieved of liability to the CITY for damages sustained by the CITY by virtue of any breach of this Agreement, and the CITY may withhold any payment due the CONTRACTOR for the purpose of set-off until such time as the exact amount of damages due the CITY from such breach can be determined.

In addition, in the event of default by the CONTRACTOR under this Agreement, the CITY may immediately cease doing business with the CONTRACTOR, immediately terminate for cause all existing Agreements the CITY has with the CONTRACTOR, and debar the CONTRACTOR from doing future business with the CITY.

Upon the CONTRACTOR filing a petition for bankruptcy or the entering of a judgment of bankruptcy by or against the CONTRACTOR, the CITY may immediately terminate, for cause, this Agreement and all other existing agreements the CONTRACTOR has with the CITY, and debar the CONTRACTOR from doing future business with the CITY.

The CITY may terminate this Agreement for cause without penalty or further obligation at any time following Agreement execution, if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on behalf of the CITY is at any time while the Agreement or any extension thereof is in effect, an employee or agent of any other party to the Agreement in any capacity or consultant to any other party of the Agreement with respect to the subject matter of the Agreement. Additionally, the CITY may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating the Agreement on behalf of the CITY from any other party to the Agreement.

Two (2) instances of refusing to accept/respond to a request for services within a twelve (12) month period constitutes an Event of Default and shall be subject to the City exercising its right to terminate for cause immediately upon written notice.

8. Force Majeure. Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by any act of war, hostile foreign action, nuclear explosion, riot, strikes, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God. Should there be such an occurrence that impacts the ability of either party to perform their responsibilities under this contract, the nonperforming party shall give immediate written notice to the other party to explain the cause and probable duration of any such nonperformance.

9. Termination for Convenience. The CITY may terminate this Agreement at any time without cause by providing the CONTRACTOR with FIFTEEN (15) calendar days advance

notice in writing. In the event of termination for convenience, all finished or unfinished deliverable items prepared by the CONTRACTOR under this Agreement shall, at the option of the CITY, become the CITY's property. If the Agreement is terminated for convenience by the CITY as provided herein, the CONTRACTOR shall be paid for services satisfactorily completed, less payment or compensation previously made. The CONTRACTOR shall not incur any additional expenses after receiving the written termination notice.

10. Access to Records. CONTRACTOR will maintain accounting records, in accordance with generally accepted accounting principles and practices, to substantiate all invoiced amounts. Said records will be available for examination by the CITY during CONTRACTOR'S normal business hours. Said records will be maintained for a period of three (3) years after the date of the invoice.

11. Contingent Fees Prohibited. The CONTRACTOR warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR, to solicit or secure this Agreement and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONTRACTOR any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. In the event of a breach of this provision, the CITY shall have the right to terminate this Agreement without further liability and at its discretion, deduct from the contract price, or otherwise recover, the full amount of any such fee, commission, percentage, gift or consideration paid in breach of this Agreement.

12. Payment. CITY shall compensate CONTRACTOR for their services, at a minimum, in accordance with the State of Florida prompt payment act. If payment is by:

- i. Paper Check – Payment terms will be Net 30 days from the date a correct and accurate invoice is presented to the CITY;
- ii. Purchasing Card – If CONTRACTOR accepts payment by purchasing card (Credit Card) payment will be made no later than 7 days from the date a correct and accurate invoice is presented to the CITY. Payment by Purchasing Card will be at the Contracted unit price amounts and no additional charges or convenience fees will be added to the invoice or payment.

13. Ownership of Documents. All data, specifications, calculations, estimates, plans, drawings, construction documents, photographs, summaries, reports, memoranda, and other documents, instruments, information and material prepared or accumulated by the CONTRACTOR (or by such sub-consultants and specialty consultants) in rendering services hereunder shall be the sole property of the CITY who may have access to the reproducible copies at no additional cost other than printing. Provided, that the CONTRACTOR shall in no way be liable or legally responsible to anyone for the CITY'S use of any such materials for another

PROJECT, or following termination. All original documents shall be permanently kept on file at the office of the CONTRACTOR.

14. Independent Contractor. The CONTRACTOR agrees that he or she is an independent contractor and not an agent, joint venture, or employee of the CITY, and nothing in this Agreement shall be construed to be inconsistent with this relationship or status. None of the benefits provided by the CITY to its employees, including but not limited to, workers' compensation insurance, unemployment insurance, or retirement benefits, are available from the CITY to the CONTRACTOR. CONTRACTOR will be responsible for paying his own Federal income tax and self-employment tax, or any other taxes applicable to the compensation paid under this Agreement. The CONTRACTOR shall be solely and primarily responsible for his and her acts during the performance of this Agreement.

15. Assignment. Neither party shall have the power to assign any of the duties or rights or any claim arising out of or related to the Agreement, whether arising in tort, contract, or otherwise, without the written consent of the other party. These conditions and the entire Agreement are binding on the heirs, successors, and assigns of the parties hereto.

16. No Third Party Beneficiaries. This Agreement gives no rights or benefits to anyone other than the CONTRACTOR and the CITY.

17. Jurisdiction. The laws of the State of Florida shall govern the validity of this Agreement, its interpretation and performance, and any other claims related to it. In the event of any litigation arising under or construing this Agreement, venue shall lie only in Lake County, Florida.

18. Term and Termination. The initial term of this Agreement shall be for a period of two (2) years from the date of award and includes an option to renew the Agreement for additional terms not to exceed an aggregate of two (2) additional years. All or part of this Agreement may be terminated by the CITY for its convenience on fifteen (15) days written notice to the CONTRACTOR. In such event, the CONTRACTOR will be entitled to compensation for services competently performed up to the date of termination.

19. Successive Year Cost Adjustments. Prices shall remain firm for all orders placed during the initial year of the contract; price escalation may be allowed only in accordance with the following provision.

- i. **Cost Adjustments** - The cost for all items as contained herein shall remain firm for the first year of the contract. Costs for subsequent years and any extension term years shall be subject to an adjustment only if increases occur in the industry. However, unless very unusual and significant changes have occurred in the industry, such increases shall not exceed 5% per year. The services provided under this Agreement would be affected primarily by increases to fuel and labor.

Any requested cost increase shall be fully documented and submitted to the City at least ninety (60) days prior to the contract anniversary date. Any approved cost adjustments shall become effective upon the anniversary date of the contract. The City may, after examination, refuse to accept the adjusted costs if they are not properly documented or increases are considered to be excessive. In the event the City does not wish to accept the adjusted costs and the matter cannot be resolved to the satisfaction of the City, the contract can be terminated by the City upon giving thirty (30) days written notice to the Contractor.

20. Non-appropriation. The CONTRACTOR understands and agrees that this Contract is subject to the availability of funds to the CITY to purchase the specified products/services. As used herein, a “nonappropriation” shall be defined as an occurrence wherein the CITY, in any fiscal period, does not allocate funds in its budget for the purchase of the specified products/services or other amounts owed pursuant to this Contract, from the source of funding which the CITY anticipates using to pay its obligations hereunder, and the CITY has no other funds, from sources another than ad valorem taxes, which it deems to be available to pay its obligations under this Contract. The CITY may terminate this Contract, with no further liability to the CONTRACTOR, effective the first day of a fiscal period provided a non-appropriation has occurred and the CITY has provided the CONTRACTOR with written notice of termination, not less than fifteen (15) days before he proposed termination date.

Upon the occurrence of such nonappropriation the CITY shall not be obligated for payment for any fiscal period for which funds have not been appropriated.

21. Contact Person. The primary contact person under this Agreement for the CONTRACTOR shall be **Ronald Monk, Project Manager**. The primary contact person under this Agreement for the CITY shall be **Mike Thornton, Purchasing Manager**.

22. Approval of Personnel. The CITY reserves the right to approve the contact person and the persons actually performing the services on behalf of CONTRACTOR pursuant to this Agreement. If CITY, in its sole discretion, is dissatisfied with the contact person or the person or persons actually performing the services on behalf of CONTRACTOR pursuant to this Agreement, CITY may require CONTRACTOR assign a different person or persons be designated to be the contact person or to perform the CONTRACTOR services hereunder.

23. Disclosure of Conflict. The CONTRACTOR has an obligation to disclose to the CITY any situation that, while acting pursuant to this Agreement, would create a potential conflict of interest between the CONTRACTOR and his duties under this Agreement.

24. Counterparts. Original signatures transmitted and received via facsimile or other electronic transmission of a scanned document, (e.g., PDF or similar format) are true and valid signatures for all purposes hereunder and shall bind the parties to the same extent as that of an original signature. Any such facsimile or electronic mail transmission shall constitute the final

agreement of the parties and conclusive proof of such agreement. Any such electronic counterpart shall be of sufficient quality to be legible either electronically or when printed as hardcopy. The CITY shall determine legibility and acceptability for public record purposes. This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original and all of which shall constitute the same instrument.

25. Authority to Obligate. Each person signing this agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and bind and obligate such party with respect to all provisions contained in this agreement.

[Signature page follows.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date indicated in the preamble to this Agreement.

THE CITY OF LEESBURG, FLORIDA

By: _____
Elise Dennison, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

**CROSS ENVIRONMENTAL
SERVICES, INC.**

By: Clyde A. Biston

Printed: Clyde A. Biston

Its: President
(Title)

EXHIBIT “A”

SCOPE OF SERVICES

- I. **Work.** CONTRACTOR shall perform all work in accordance with the Contract Documents for furnishing Dumpster Refurbishing services as required by ITB 160021.
- II. **Incorporation of Sections.** The following sections of the Invitation to Bid 160021 document are incorporated by reference and made a part hereof:
 - a. Section 1 - Special Terms & Conditions,
 - b. Section 2 - Scope of Work,
 - c. Section 3 - General Terms & Conditions, and
 - d. Section 5 - City Forms as completed and submitted by CONTRACTOR.
- III. **Bid Submittal.** The original November 24, 2015 bid submittal from the Contractor is incorporated by reference and made a part hereof.
- IV. **Contract Prices** - Contracted unit prices submitted by the vendor are attached as **EXHIBIT “B”** and are incorporated by reference and made a part hereof.

[Rest of page intentionally left blank.]

EXHIBIT “B”

BASE BID ITEMS

Item	Description	Unit of Measure	Contracted Unit Price
1.0	Demolish/Dispose of Predominately Wood Frame Structure not on concrete slab	Square Foot (SF)	\$2.25
2.0	Demolish/Dispose of Predominately Wood Frame Structure on concrete slab	SF	\$2.50
3.0	Demolish/Dispose of Predominately Concrete Block Structure assumes concrete slab	SF	\$2.65
4.0	Demolish/Dispose of Predominately Metal/Steel Structure	SF	\$1.00
4.1	Demolish/Dispose of concrete slab and footer for item 4.0.	SF	\$2.00
5.0	Demolish/Dispose of Surface Improvements (pool deck, driveways, sidewalks, slabs)	SF	\$1.50
6.0	Seed and Straw when requested.	SF	\$0.02

ADDITIONAL BID ITEMS

Item	Description	Unit of Measure	Bid Unit Price
A1	Clean Fill Dirt	Cubic Yard	\$18.00
A2	Septic Tank Abandonment	Each	\$600.00
A3	Demolition cancellation prior to mobilization	Each	\$200.00
A4	Demolition cancellation after mobilization	Each	\$1,000.00
A5	Emergency Mobilization, in addition to other charges	Each	\$500.00
A6	Mobilization for septic tank removal if unable to locate or instructed to cease attempt to locate.	EA	\$250.00
A7	Mono Pole and Foundation Removal	LF	\$300.00
A8	Asbestos Survey – Written	Each	\$1,000.00
A9	Pumping of Swimming Pool	Each	\$200.00
A10	Demolish and remove in-ground concrete pool empty or filled with water	SF	\$15.00
A11	Demolish and remove in-ground fiberglass pool empty or filled with water	SF	\$10.00
A12	Demolish and remove above ground pool empty or filled with water	SF	\$10.00

Item	Description	Unit of Measure	Bid Unit Price
A13	Excavate dirt, demolish and remove in-ground concrete pool filled with dirt	SF	\$20.00
A14	Excavate dirt, demolish and remove in-ground fiberglass pool filled with dirt	SF	\$15.00
A15	Demolish and remove wood fencing	LF	\$4.00
A16	Demolish and removal metal fencing to include chain link	LF	\$2.00
A17	Demolition Permit Obtained by Contractor from Leesburg Building Services.	Each	Reimbursed At Actual Cost
A18	Tipping fees for waste disposal resulting from ordered demolition work. Unit may vary depending on disposal site.	Ton	Reimbursed At Actual Cost

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AGENDA MEMORANDUM

Item No: 4.C.1
Meeting Date: December 7, 2015
From: Al Minner, City Manager
Subject: LakeFront TV Production Services

Staff Recommendation:

Approve Facci Bella contract extension.

Analysis:

The attached extension provides for (1) a three year term extension; (2) increased notice for termination without cause to 120 days (from 45); and, (3) an increase in annual retainer to \$75,000 annually (from \$70,000) for Facci Bella, Inc. All other terms of the agreement remain the same.

Submission Date and Time: 12/3/2015 1:24 PM

Department: _____ Prepared by: _____ Attachments: Yes___ No___ Advertised:___Not Required___ Dates: _____ Attorney Review : Yes___ No___ _____ Revised 6/10/04	Reviewed by: Dept. Head _____ Finance Dept. _____ Deputy C.M. _____ Submitted by: City Manager _____	Account No. _____ Project No. _____ WF No. _____ Budget _____ Available _____
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RESOLUTION NO. _____

RESOLUTION OF THE CITY COMMISSION OF THE CITY OF
LEESBURG, FLORIDA AUTHORIZING THE MAYOR AND CITY
CLERK TO EXECUTE AN AMENDMENT TO THE
MANAGEMENT SERVICES AGREEMENT WITH FACCI BELLA,
INC.; AND PROVIDING AN EFFECTIVE DATE. (LAKEFRONT
TV)

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LEESBURG,
FLORIDA:**

THAT the Mayor and City Clerk are hereby authorized to execute an agreement
with FACCI BELLA, INC., whose address is 27650 SE Highway 42, Umatilla, Florida, for
management services for LakeFront TV production services.

THAT this resolution shall become effective immediately.

PASSED AND ADOPTED by the City Commission of the City of Leesburg, Florida, at a
regular meeting held the 7th day of December 2015.

Elise A. Dennison, Mayor

ATTEST:

J. Andi Purvis, City Clerk

**AMENDMENT TO THE FACCI BELLA, INC. AGREEMENT FOR
MANAGEMENT SERVICES DATED DECEMBER 8, 2014**

THIS AMENDMENT is made to the Agreement between The City of Leesburg, a Florida Municipal Corporation, whose address is 501 West Meadow Street, Post Office Box 490630, Leesburg, Florida 34749-0630 (hereinafter referred to as the "CITY"), and **FACCI BELLA, INC.**, a Maryland corporation whose address is 27650 SE Highway 42, Umatilla, Florida 32784 (hereinafter referred to as the "CONTRACTOR").

NOW, THEREFORE, Agreement made between the parties shall be amended as follows:

Paragraph 1 - Services. The CONTRACTOR shall perform services as provided in Exhibit "A", dated November 23, 2015. This Exhibit "A" shall replace and supersede the original Exhibit "A". Nothing herein shall limit the CITY'S right to obtain proposals or services from other contractors for similar projects.

Paragraph 17 - Term. The term of this Contract shall be for a period of three years, unless earlier terminated under another provision of the Contract. CONTRACTOR shall commence work on the day following approval of this Contract by the Leesburg City Commission and the Contract shall terminate on December 8, 2018.

Paragraph 18 – Termination. Paragraph 18(a) is modified to read:

For Convenience. All or part of this Contract may be terminated by the CITY for its convenience on one hundred twenty (120) days written notice to the CONTRACTOR. In such event, the CONTRACTOR will be entitled to compensation for services competently performed up to the date of termination as set forth more particularly on Exhibit "B" attached.

EXHIBIT B to the Agreement is replaced by Exhibit B attached to this Amendment..

Except as specifically modified by this Amendment, the Contract previously executed between the parties, and amended hereby, shall continue in full force and effect as originally written. In the event of any conflict between this Amendment and the original Contract, this Amendment shall govern and take precedence.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates shown below.

FACCI BELLA, INC.

By: _____

Type or print name and corporate title

DATE: _____

THE CITY OF LEESBURG, FLORIDA

BY: _____
ELISE DENNISON, Mayor

DATE: _____

Attest: _____
ANDI PURVIS, City Clerk

APPROVED AS TO FORM AND CONTENT:

CITY ATTORNEY

EXHIBIT "A"

The purpose of this Contract is to engage CONTRACTOR to provide video production services for CITY's "Lakefront TV" television station, in accordance with the terms stated.

CONTRACTOR shall have the following responsibilities:

- A. Provide a qualified broadcast technician on site at CITY's Lakefront TV studios for no less than 30 hours weekly, to handle all television programming including shooting, editing, studio setup and operations, and any work required in conjunction with Lakefront TV's cablecast media server. CONTRACTOR will maintain current operations at Lakefront TV and all existing weekly programming, while improving the overall quality of the channel for its viewers.
- B. CONTRACTOR will provide additional staff resources as required to assist in writing, scheduling and producing television programs. CONTRACTOR will actively promote Lakefront TV to increase its visibility to the public, generate new programming complementary to existing programming, and increase private programming sponsorships.
- C. Except as otherwise specified, programming will adhere to the current character of Lakefront TV as a government access cable channel with a primary format of local public affairs, governmental issues, medical information, and business information in Leesburg and Lake County. All programming and management decisions will be coordinated jointly between CITY and CONTRACTOR.
- D. CITY shall permit CONTRACTOR to set up part of its operations in the Lakefront TV studio, and to utilize some of CONTRACTOR's privately owned production equipment in conjunction with the equipment already owned by the CITY. Additional equipment provided by CONTRACTOR will include additional high definition cameras, studio and location lighting fixtures, grip equipment (stands, clamps, mounts, flags, scrims, heads etc.), a broadcast quality teleprompter, multiple microphones, and two Final Cut Pro HD editing bays. The parties will inventory and label all equipment to keep a record of ownership. CONTRACTOR may not utilize any CITY owned equipment for CONTRACTOR's own private video production work. CITY equipment must be used only for Lakefront TV productions.
- E. CONTRACTOR may provide CITY with fifty-two (52) half-hour episodes of Dr. Anna Marie Chwastiak's syndicated better living show, half of which may focus on a local energy focused green renovation project. Lakefront TV may air these episodes at no additional charge.
- F. CONTRACTOR will assume all duties for the production of Lakefront TV's current programming and may be called on to assist the CITY with internal video productions from time to time. This production work will include recording and televising various shows as well as all Leesburg City Commission meetings.

- G. CONTRACTOR will coordinate with CITY to pursue corporate sponsorship for Lakefront TV production work and programs. All sponsorships must be mutually agreed upon by CITY and CONTRACTOR. Proceeds from each sponsorship obtained will be divided between the parties in the following manner: for new sponsorships which will require extra production work from CONTRACTOR, 80% of the proceeds will be paid to CONTRACTOR and 20% to CITY. For sponsorships which do not require additional production work, 65% of the proceeds will be paid to the CITY and 35% to CONTRACTOR. CITY will work with CONTRACTOR to provide any needed furniture and assistance in setting up the Lakefront TV studio for new operations as long as there is no additional expense to the CITY. The CITY will also provide keys and security codes to CONTRACTOR to allow free access to the Lakefront TV studio, which shall be returned to CITY upon termination or expiration of this Contract.
- H. CITY may also, at its option, provide technical support on an occasional basis for Lakefront TV equipment, phone and data network services.
- I. CITY shall pay all utility expenses for the Lakefront TV studios, and all charges for high speed data access, provided that such data access shall be used only for Lakefront TV purposes and not for any private business of CONTRACTOR.

EXHIBIT "B"

The total compensation to CONTRACTOR under this Contract shall be \$75,000.00 and compensation shall not exceed that sum. CONTRACTOR shall be paid \$6,250.00 per month due on the first day of each month, in arrears following presentment of an accurate and correct invoice. CONTRACTOR shall be responsible for paying all sales, income and other taxes due on compensation paid to it under this Contract, as well as for paying all tangible personal property tax levied against equipment owned by CONTRACTOR.

If this Contract is terminated prior to expiration, CONTRACTOR shall be entitled to payment on a daily prorated basis for the month the termination becomes effective, from the first day of such month to the actual termination date.

Monthly installments not paid by the 15th day of each month shall be considered past due, and shall bear interest at the rate of 1% per month (commencing on the 16th day of the month the installment first becomes payable) until paid in full. No other penalties or late charges shall apply. Payment may be made in cash, by check, , or by credit or P-card, at CITY's option, unless CONTRACTOR does not accept credit card payments from anyone, in which case payment must be by one of the other methods listed.



AGENDA MEMORANDUM

Item No: 4.C.2.

Meeting Date: December 7, 2015

From: Jim Lemberg – Manager, Communications Utility

Subject: Resolution authorizing execution of an Interlocal Agreement with Lake County.

Staff Recommendation:

Staff recommends approval of a resolution authorizing execution of an interlocal agreement with Lake County under which the City will provide communications services to the County in exchange for the County's allowing the City to use two County tower sites.

Analysis:

At its April 13, 2015 meeting, Commission approved acceptance of a customer order from the Lake County Library System for sixteen Ethernet circuits. One of those circuits will serve the Astor County Library in the far northeastern corner of Lake County. The Communications Utility compared the costs of (i) extending fiber to Astor and (ii) deploying microwave equipment to provide service to the Astor Public Library.

Extend fiber to Astor..... \$694,647

Deploy microwave to reach Astor..... \$113,523

Towers owned by Lake County in Astor and Paisley were identified as technically feasible. Use of towers owned by other parties would have added several thousand dollars of recurring monthly costs to the Utility's business case for the project. Discussions with County staff led to the subject interlocal agreement under which the Utility would not experience any recurring monthly cash outflows to place antennas on towers.

Options:

1. Approve the resolution, or
2. Such alternative action as the Commission may deem appropriate

Fiscal Impact:

Although this interlocal agreement will have no fiscal impact, the Utility notes that \$229,604 remained in WF 970739 (Lake County Library System) at the end of the City's fiscal year 2015 and that it will submit a rollover request to make those funds available during the City's fiscal year 2016 to complete the project.

Submission Date and Time: 12/3/2015 1:24 PM

Department: <u>IT/Communications</u> Prepared by: <u>Jim Lemberg</u> Attachments: Yes <u>X</u> No <u> </u> Advertised: <u> </u> Not Required <u>X</u> Dates: <u>n/a</u> Attorney Review : Yes <u>X</u> No <u> </u> <u> </u> Revised 6/10/04	Reviewed by: Dept. Head <u> </u> Finance Dept. <u> </u> Deputy C.M. <u> </u> Submitted by: City Manager <u> </u>	Account No. <u>n/a</u> Project No. <u>n/a</u> WF No. <u>n/a</u> Budget <u>n/a</u> Available <u>n/a</u>
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RESOLUTION NO. _____

RESOLUTION OF THE CITY COMMISSION OF THE CITY OF
LEESBURG, FLORIDA AUTHORIZING THE MAYOR AND CITY
CLERK TO EXECUTE AN INTERLOCAL AGREEMENT WITH
LAKE COUNTY UNDER WHICH THE CITY WILL PROVIDE
COMMUNICATIONS SERVICES AND THE COUNTY WILL
ALLOW USE OF TWO OF ITS TOWER SITES; AND PROVIDING
AN EFFECTIVE DATE.

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LEESBURG,
FLORIDA:**

THAT the Mayor and City Clerk are hereby authorized to execute an interlocal agreement with Lake County, Florida, whose address is P.O. Box 7800, Tavares, FL 32778, under which the City will provide communications services to selected County sites and the County will allow the City to use two tower sites that it owns in Paisley, Florida, and Astor, Florida.

THAT this resolution shall become effective immediately.

PASSED AND ADOPTED by the City Commission of the City of Leesburg, Florida, at a regular meeting held the seventh day of December 2015.

Mayor

ATTEST:

City Clerk

**INTERLOCAL AGREEMENT BETWEEN
LAKE COUNTY, FLORIDA AND
CITY OF LEESBURG, FLORIDA**

This Interlocal Agreement ("Agreement") is entered into by and between Lake County, Florida, a political subdivision of the State of Florida ("County"), and the City of Leesburg, Florida, a municipal corporation organized under the laws of the State of Florida ("City"), each referred to individually as a "Party" and severally as the "Parties" in this Agreement.

WHEREAS, pursuant to Section 163.01, Florida Statutes, local governments can cooperate with each other in order make the most efficient use of their powers and resources; and

WHEREAS, County owns towers (each individually a "Tower" and severally "Towers") and associated equipment shelters (each individually a "Shelter" and severally "Shelters") near Paisley, Florida, and Astor, Florida; and

WHEREAS, County owns certain underground fiber optic cable infrastructure near Tavares, Florida ("Underground Infrastructure"), depicted in Exhibit D to this Agreement; and

WHEREAS, City desires to place antennas on Towers; and

WHEREAS, City desires to place equipment in Shelters; and

WHEREAS, City desires to use Underground Infrastructure; and

WHEREAS, County is willing to make Towers, Shelters and Underground Infrastructure available to City; and

WHEREAS, City operates a communications network over which it provides communications throughout Lake County, Florida; and

WHEREAS, County desires City to provide communications services to various of its sites throughout Lake County, Florida; and

WHEREAS, City is willing to provide communications services over its network to various County sites.

NOW THEREFORE, in consideration of the mutual terms, understandings, conditions, promises and covenants set forth in this Agreement, County and City agree as follows:

1.0 RECITALS. The Parties agree that the foregoing recitals are true and correct.

2.0 TERM

2.1 Initial Term. This Agreement shall become effective on the date the last Party executes the Agreement and shall remain in effect through June 30, 2018 ("Initial Term").

2.2 Extensions. This Agreement shall automatically renew for five (5) one-year terms (each a "Renewal Term") unless otherwise terminated per the provisions of this Agreement.

2.3 Termination. If either Party does not wish this Agreement to automatically renew at the end of the Initial Term or any Renewal Term, it shall provide written notice to the other Party no less than ninety (90) days prior to the expiration of the then-current term.

3.0 CITY OBLIGATIONS

- 3.1 City shall provide the communications services stated in Exhibit A of this Agreement ("City Services") and as broadly described in Exhibits B-1 through B-2 of this Agreement.
- 3.2 City shall maintain in good standing all regulatory registrations required for it to provide the communications services stated in Exhibit A of this Agreement.
- 3.3 City shall maintain in good standing all licenses required by the U.S. Federal Communications Commission in order to operate the radio equipment and antennas that City places in Shelters and on Towers respectively.
- 3.4 City shall ensure that the operation of the radios, antennas and other equipment that it places at the Shelters and on the Towers:
 - 3.4.1 Does not interfere with County's ongoing use of Shelters and/or Towers; and
 - 3.4.2 Does not interfere with any in-use frequency identified on a Frequency List as long as the parties operating equipment at such frequency continues to operate such equipment within the frequency stated on the Frequency List.
- 3.5 Prior to deployment of any equipment to a Shelter or Tower, City shall provide County with a written list of all frequencies at which such equipment shall operate.
- 3.6 City shall access Shelters, Towers and the associated areas only per the procedures stated in Section 5 of this Agreement.
- 3.7 City shall use only County-approved contractors to install, maintain and/or repair City's antennas and equipment placed in Shelters and on Towers.
- 3.8 Upon completion of any inspection, maintenance, repair or other activity at a Shelter or Tower performed under this Agreement, City shall ensure that such facility is left in a broom-clean, debris-free state.
- 3.9 If City ceases to use any Shelter or Tower under this Agreement:
 - 3.9.1 City shall remove its equipment and/or antenna from such Shelter and/or Tower no later than sixty (60) days after end of such use of Shelter and/or Tower, and,
 - 3.9.2 City shall leave such Shelter and/or Tower in the same condition as it was found when City began using such Shelter and/or Tower, apart from normal wear.
- 3.10 Prior to either (i) City's initial deployment of antennas and/or associated cables and equipment to a Tower (an "Initial Deployment") or (ii) City's subsequent deployment of additional antennas and/or associated cables and equipment (a "Subsequent Deployment"), City shall bear the cost of a structural analysis ("Structural Analysis") performed by a professional engineer for that Tower. City shall provide to County a sealed report from the professional engineer that states the results of the Structural Analysis regarding the effect of City's contemplated Initial Deployment or Subsequent Deployment.
- 3.11 If the Structural Analysis related to City's contemplated Initial Deployment or Subsequent Deployment indicates that any structural modifications would be required for the Tower to bear the increased load(s) that would arise from City's deployment, City shall bear the costs

of such structural modifications if City wishes to proceed with its contemplated deployment. City shall confirm in writing to County that (i) City intends to proceed with its contemplated deployment and (ii) City will bear the costs of the structural modifications identified by the Structural Analysis.

- 3.12 If County notifies City that City's equipment at a Tower is interfering with any frequency identified on a Frequency List, City shall cause such interference to cease within no more than twenty-four (24) hours of receiving such notice. If City cannot diagnose and cure such interference within the twenty-four (24) hour cure period, City shall cease operation of its equipment at that Tower. City shall have the right to subsequently intermittently operate its equipment for the purpose of testing various interference-mitigation measures.

4.0 COUNTY OBLIGATIONS

- 4.1 County shall provide the services stated in Exhibit C of this Agreement ("County Services").
- 4.2 County shall maintain its Sunshine State One Call membership.
- 4.3 County shall ensure that Underground Infrastructure remains registered in the Sunshine State One Call database of underground infrastructure.
- 4.4 County shall ensure timely and accurate responses to Sunshine State One Call locate tickets related to Underground Infrastructure.
- 4.5 County shall provide routine maintenance and emergency repairs on Towers, Shelters and Underground Infrastructure.
- 4.6 If the Structural Analysis related to an Initial Deployment or Subsequent Deployment identifies a defect in the associated Tower's structural members requiring repair regardless of whether or not City moves forward with its contemplated Initial Deployment or Subsequent Deployment, County shall be responsible for the costs of such repair.
- 4.7 Apart from County's own use of Shelters and Towers, County shall not allow any other party to use Shelters and Towers in any manner that interferes with City's use of Shelters and Towers.
- 4.8 If County estimates that greater than ten percent of its traffic being transported by any given circuit provided by City under this Agreement is interstate traffic as defined by the Federal Communications Commission, County shall provide written notice to City confirming such.
- 4.9 County shall maintain at its own cost and expense the following insurance coverages on each Tower and shall name City as an additional insured:
- 4.9.1 All Risk coverage in an amount adequate to fully replace the Tower;
 - 4.9.2 Any Workers' Compensation insurance required by law;
 - 4.9.3 Comprehensive General Liability coverage on forms no more restrictive than the latest editions of the Commercial General Liability policies of the Insurance Services Office, having minimum limits of \$1,000,000 per occurrence combined single limit.

- 4.10 Upon execution of this Agreement, County shall provide City with a list of all then-existing frequencies being used at each Tower (each a "Frequency List").
- 4.11 If County or any other party acting with the consent and knowledge of County places a new frequency into service at a Tower, County shall ensure that such frequency does not interfere with any frequency City has (i) previously placed into service at such Tower and (ii) properly notified County of such frequency's being placed into service per section 3.6 of this Agreement. Upon such new frequency's being placed into service, County shall provide an amended Frequency List to City.

5.0 CITY ACCESS

- 5.1 Other than during emergencies, City shall provide County with not less than twenty-four (24) hours notice of gaining access to a Shelter or Tower site.
- 5.2 If City requires emergency access to a Shelter or Tower site, City shall contact County's designated emergency contact prior to accessing site.
- 5.3 While accessing a Shelter or Tower site, City shall ensure that all of County's security measures for that site remain in force.
- 5.4 If City requires the services of a third party at a Shelter or Tower site, at least one City employee shall accompany and monitor such third party personnel at the site.

6.0 INITIAL TURN-UP OF SERVICES

- 6.1 City shall begin providing, no later than January 1, 2016, those parts of City Services for which network infrastructure is available.
- 6.2 For any portion of City Services that City is unable to begin providing by January 1, 2016, due to the unavailability of network infrastructure, City shall provide County with weekly written status reports of network infrastructure acquisition, deployment and commissioning.
- 6.3 County shall begin providing County Services no later than January 1, 2016.
- 6.4 If City has not begun providing all City Services by February 1, 2016, for each month or portion of a month that City does not provide all City Services, County shall invoice City per the following formula:

$$\begin{array}{rcccl} \text{Amount} & & \text{Prorated monthly dollar} & & \text{Prorated monthly dollar} \\ \text{to be} & = & \text{value of all County Services} & \text{MINUS} & \text{value of all City Services} \\ \text{Invoiced} & & \text{provided during that month} & & \text{provided during that month} \end{array}$$

7.0 TERMINATION IN PART

- 7.1 The Parties acknowledge that each intends that the exchange of services between themselves to remain approximately equitable at all times, with the monthly dollar value of the services provided by one to the other not exceed one-hundred, ten (110) percent of the monthly dollar value of the services provided in return.

- 7.2 If City wishes to terminate its receipt of one or more, but not all, County Services, it shall provide County with not less than ninety (90) days prior written notice.
- 7.3 If County wishes to terminate its receipt of one or more, but not all, City Services, it shall provide City with not less than ninety (90) days prior written notice.
- 7.4 If a Party ("Terminating Party") wishes to terminate its receipt of one or more, but not all, services per the provisions of Sections 7.1 or 7.2 of this Agreement, the other Party ("Continuing Party") shall provide written notice to the Terminating of whether it wishes to continue receiving all services from Terminating Party or to terminate its receipt of one or more services.
- 7.5 If at any time a Party ("Receiving Party") receives services from the other Party ("Providing Party") under this Agreement whose monthly dollar value stated in Exhibits A or C exceeds one-hundred, ten (110) percent of the monthly dollar value of the services it provides to the Providing Party under this Agreement, Providing Party shall invoice Receiving Party each month for the amount in excess of one-hundred, ten (110) percent of the monthly dollar value of services then being provided to Receiving Party under this Agreement.

8.0 INVOICING

- 8.1 Any invoices issued under this Agreement shall be issued in arrears to the provision of services being invoiced.
- 8.2 The invoiced Party shall make timely payment of all amounts properly invoiced and not disputed under this Agreement.
- 8.3 Disputed Charges
- 8.3.1 If a Party wishes to dispute any invoiced amount, it shall submit to the other Party a written statement of its dispute not later than sixty (60) days after the date of the invoice on which the disputed amount was first stated. The written dispute shall clearly state: (i) the date of the invoice on which the disputed amount was first stated; (ii) the disputed amount; and (iii) why the amount due is being disputed.
- 8.3.2 The Party receiving the dispute shall provide a written response to the other Party not later than thirty (30) days after receipt of the dispute notice. Such response shall clearly state whether or not the dispute is agreed to. If the invoicing Party does not agree to the dispute, its written response shall clearly explain why it is not agreeing to the dispute.
- 8.3.3 Any disputed amounts not agreed to by the invoicing Party shall bear interest at the lesser of (i) one and one-half (1.5) percent per month or portion of a month not paid when due or (ii) the highest amount allowed by law.

9.0 FORCE MAJEURE

- 9.1 Performance by either Party of its obligations under this Agreement shall be excused if the failure of or delay in performance of such obligation is caused by inclement weather, strikes or other labor strife, unavailability of necessary materials, or other causes beyond the control of the Party not performing its obligations ("Force Majeure Event").

9.2 If a Party's performance of any obligation under this Agreement is delayed by a Force Majeure Event, that Party shall provide prompt written notice to the other of such delay.

9.3 Such excusal of performance shall extend until such time as the Force Majeure Event has abated, after which a reasonable time shall be allowed for performance.

10.0 DEFAULT

10.1 Defaulting Party Defined. If a Party ("Owing Party") fails to make any payment when due and such failure continues for five (5) business days after written notice from other Party, Owing Party shall be considered to be in default of its obligations under this Agreement. If a Party ("Defaulting Party") fails to observe or perform any other material term of this Agreement and such failure continues for thirty (30) days after written notice from the other Party, then Defaulting Party shall be in default of its obligations under this Agreement.

10.2 Non-defaulting Party's Privileges. The non-defaulting Party may terminate this Agreement in whole or in part, and/or pursue any remedies it may have at law or in equity.

11.0 DISPUTES

11.1 Any disputes arising from this Agreement which the Parties cannot settle amicably between themselves shall be submitted to arbitration as described in 11.2, 11.3 and 11.4 below for final settlement.

11.2 Such arbitration shall be undertaken by one arbitrator who is experienced in business law and who is mutually agreed upon by the Parties.

11.3 Such arbitration shall take place in Lake County, Florida.

11.4 Such arbitration shall be final and binding upon both Parties.

11.5 During such arbitration, the Parties shall continue to fulfill their obligations under this Agreement.

12.0 JURISDICTION. This Agreement shall be construed under the laws of Florida. Venue for any action arising under this Agreement shall be in Lake County, Florida.

13.0 NO WAIVER. Failure by either Party to enforce any right or remedy under this Agreement or to insist at all times on strict enforcement of each and every term of this Agreement shall not be deemed or construed as a waiver of the right at any subsequent time to enforce each and every provision of this Agreement, nor shall such failure be deemed or construed to be a modification of this Agreement by implication or course of conduct.

14.0 NOTICES. Any notices provided by one Party to the other Party pursuant to this Agreement shall be in writing and deemed received if (i) delivered personally, (ii) sent via facsimile, (iii) sent via pre-paid overnight courier, (iv) transmitted through electronic mail (if an e-mail

address is provided) or (v) sent by U.S. Postal Service, certified mail, return receipt requested, addressed as follows:

IF TO CITY:

City of Leesburg
501 W. Meadow Street
P.O. Box 490630
Leesburg, FL 34749
Attn: City Manager

IF TO COUNTY:

Lake County
550 W. Main Street
P.O. Box 7800
Tavares, FL 32778
Attn: County Manager

Copy to:

City of Leesburg
318 S. Second Street
P.O. Box 490630
Leesburg, FL 34748
Attn: Communications Manager
Facsimile: (352) 435-9451
Email: communications.manager@leesburgflorida.gov

Copy to:

Lake County
Public Safety Department
20415 Independence Blvd
Groveland, FL 34736
Attn: Greg Holcomb
Facsimile: (352) 253-1815
Email: gholcomb@lakecountyfl.gov

Either Party may change its notice address upon notice to the other Party. All notices shall be deemed given on (i) the date delivered if delivered personally, by facsimile or e-mail (or the next business day if delivered on a weekend or legal holiday), (ii) the business day after dispatch if sent by overnight courier, or (iii) the third business day after dispatch if otherwise sent.

- 15.0 ASSIGNMENT.** Neither Party may assign its rights or obligations under this Agreement in whole or in part without the written consent of the other Party.
- 16.0 MODIFICATIONS TO AGREEMENT.** No modification, amendment, alteration or addition to the terms or conditions contained in this Agreement shall be effective unless contained in a written and dated document executed by both Parties which expressly modifies, amends, alters or adds to this Agreement.
- 17.0 SEVERABILITY.** If any term, condition or covenant of this Agreement is declared judicially to be invalid or unenforceable, then to the extent it is possible to do so without destroying the overall intent and effectiveness of this Agreement, the invalidated portion shall be severed and the remainder of this Agreement shall continue in full force and effect.
- 18.0 CONSTRUCTION.** Titles used throughout this Agreement are solely for convenience and reference, and in no way define or limit the construction of the terms and conditions of this Agreement. The use of singular words shall include the plural where appropriate or necessary to the meaning.
- 19.0 ENTIRE AGREEMENT.** This Agreement contains all commitments, agreements and understandings between themselves concerning the subject matter. No deviation from the terms of this Agreement shall be predicated upon any negotiations, representations or agreements not expressly contained in this Agreement.

20.0 AUTHORIZED EXECUTION. Each Party each certifies that (i) its governing authority has approved its participation in this Agreement and (ii) the person signing this Agreement on its behalf has been properly and legally authorized to do so.

REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK

THE CITY OF LEESBURG, FLORIDA

signed

printed name

title

date

ATTEST:

J. Andi Purvis
City Clerk

APPROVED AS TO FORM AND CONTENT:

Fred Morrison
City Attorney

LAKE COUNTY FLORIDA

signed

printed name

title

date

ATTEST:

Neil Kelly
Clerk of the Board of County
Commissioners,
Lake County, Florida

APPROVED AS TO FORM AND
LEGALITY:

Melanie Marsh
County Attorney

EXHIBIT A

Services That City Shall Provide to County

REF	SERVICE	ENDPOINT A	ENDPOINT B	MONTHLY DOLLAR VALUE
1	Subring Protected Ethernet Network Transport Circuit, 1 Gbps	316 N Ingraham Ave Tavares, FL	20415 Independence Blvd Groveland, FL	\$2,250.00
2	Ethernet Network Transport Circuit, 1 Gbps	Lake County ECOC Tavares, FL	Leesburg Police 115 E Magnolia St Leesburg, FL	\$1,800.00
3	Ethernet Network Transport Circuit, 10 Mbps	Florida Hospital Waterman 1000 Waterman Way Tavares, FL	Tavares Water Tower 316 N Ingram Ave Tavares, FL	\$379.69
4	Ethernet Network Transport Circuit, 10 Mbps	Leesburg Regional Medical Center 301 S Lake St Leesburg, FL	Tower Site 550 S 14th St Leesburg, FL	\$379.69
5	Ethernet Network Transport Circuit, 25 Mbps	Mount Dora Police 1300 N Donnelly St Mount Dora, FL	Lake County ECOC Tavares, FL	\$506.25
6	Ethernet Network Transport Circuit, 25 Mbps	Eustis Police 51 E Norton Ave Eustis, FL	Lake County ECOC Tavares, FL	\$506.25
7	Ethernet Network Transport Circuit, 25 Mbps	Groveland Police 408 W Orange St Groveland, FL	Lake County ECOC Tavares, FL	\$506.25
8	Ethernet Network Transport Circuit, 10 Mbps	County Maintenance Barn 609 Disston Ave Minneola, FL	315 W Main St Tavares, FL	\$379.69
9	Ethernet Network Transport Circuit, 10 Mbps	Supervisor of Elections Warehouse 705 S Rossiter St Mount Dora, FL	315 W Main St Tavares, FL	\$379.69
10	Ethernet Network Transport Circuit, 10 Mbps	Metropolitan Planning Organization 1616 S 14th St Leesburg, FL	315 W Main St Tavares, FL	\$379.69

EXHIBIT B-1



COMMUNICATIONS UTILITY

SERVICE SCHEDULE Subring Protected Ethernet Network Transport

Issue 1 – 5 October 2015

Page 1 of 1

This leased service is transport of customer data across a Layer 2 Ethernet network with a Line Rate and Customer Bandwidth as stated in the applicable Customer Order. Customer Bandwidth includes various overheads such as packet headers and protocol-dependent elements, all of which result in actual payload throughput being less than the stated Customer Bandwidth.

Customer's traffic is protected by means of Ethernet ring protection switching technologies that conform to ITU-T Recommendation G.8032.

Customer's traffic may be transported on City's network using either IEEE 802.1Q or IEEE 802.1ad which is also known as IEEE 802.1QinQ and is sometimes informally referred to as "Q-in-Q".

Service delivery points are located on Customer's premises in a climate-controlled environment where 110 VAC electrical power is readily available.

The logical and physical demarcation points at each endpoint are an interface and a port respectively on City equipment.

If, other than for Excused Outages, City testing finds that less than 95% of the data delivered by Customer at either endpoint is being delivered to the other endpoint and that such Customer-delivered-bandwidth does not exceed the Customer Bandwidth stated in the applicable Customer Order, City will credit Customer's account with the amounts indicated. Outages spanning calendar months are considered a single outage and are credited in the month in which the outage ends. "MRC" in the table below refers to Customer's monthly recurring charge.

Outage lasting at least	Outage lasting not more than	Credit
24 continuous hours	47 continuous hours	6% of MRC
48 continuous hours	71 continuous hours	12% of MRC
72 continuous hours	95 continuous hours	18% of MRC
96 continuous hours	120 continuous hours	25% of MRC
120 continuous hours	191 continuous hours	50% of MRC
192 continuous hours	720 continuous hours	100% of MRC

Escalation Schedules

Please visit our website for the most up-to-date escalation list for your technical or commercial concerns:

<http://www.LeesburgFlorida.gov>

→Government

→Departments

→Communications Utility

→Escalation Lists

EXHIBIT B-2



SERVICE SCHEDULE Ethernet Network Transport

Issue 8 – April 8, 2014

Page 1 of 1

This leased service is transport of customer data across a Layer 2 Ethernet network with a Line Rate and Customer Bandwidth as stated in the applicable Customer Order. Customer Bandwidth includes various overheads such as packet headers and protocol-dependent elements, all of which result in actual payload throughput being less than the stated Customer Bandwidth.

Customer's traffic may be transported on City's network using either IEEE 802.1Q or IEEE 802.1ad which is also known as IEEE 802.1QinQ and is sometimes informally referred to as "Q-in-Q".

Various levels of Quality of Service are available as optional services.

Service delivery points are located on Customer's premises in a climate-controlled environment where 110 VAC electrical power is readily available.

The logical and physical demarcation points at each endpoint are an interface and a port respectively on City equipment.

If, other than for Excused Outages, City testing finds that less than 95% of the data delivered by Customer at either endpoint is being delivered to the other endpoint and that such Customer-delivered-bandwidth does not exceed the Customer Bandwidth stated in the applicable Customer Order, City will credit Customer's account with the amounts indicated. Outages spanning calendar months are considered a single outage and are credited in the month in which the outage ends. "MRC" in the table below refers to Customer's monthly recurring charge.

Outage lasting at least	Outage lasting not more than	Credit
24 continuous hours	47 continuous hours	6% of MRC
48 continuous hours	71 continuous hours	12% of MRC
72 continuous hours	95 continuous hours	18% of MRC
96 continuous hours	120 continuous hours	25% of MRC
120 continuous hours	191 continuous hours	50% of MRC
192 continuous hours	720 continuous hours	100% of MRC

Escalation Schedules

Please visit our website for the most up-to-date escalation list for your technical or commercial concerns:

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→Government

→Departments

→Communications Utility

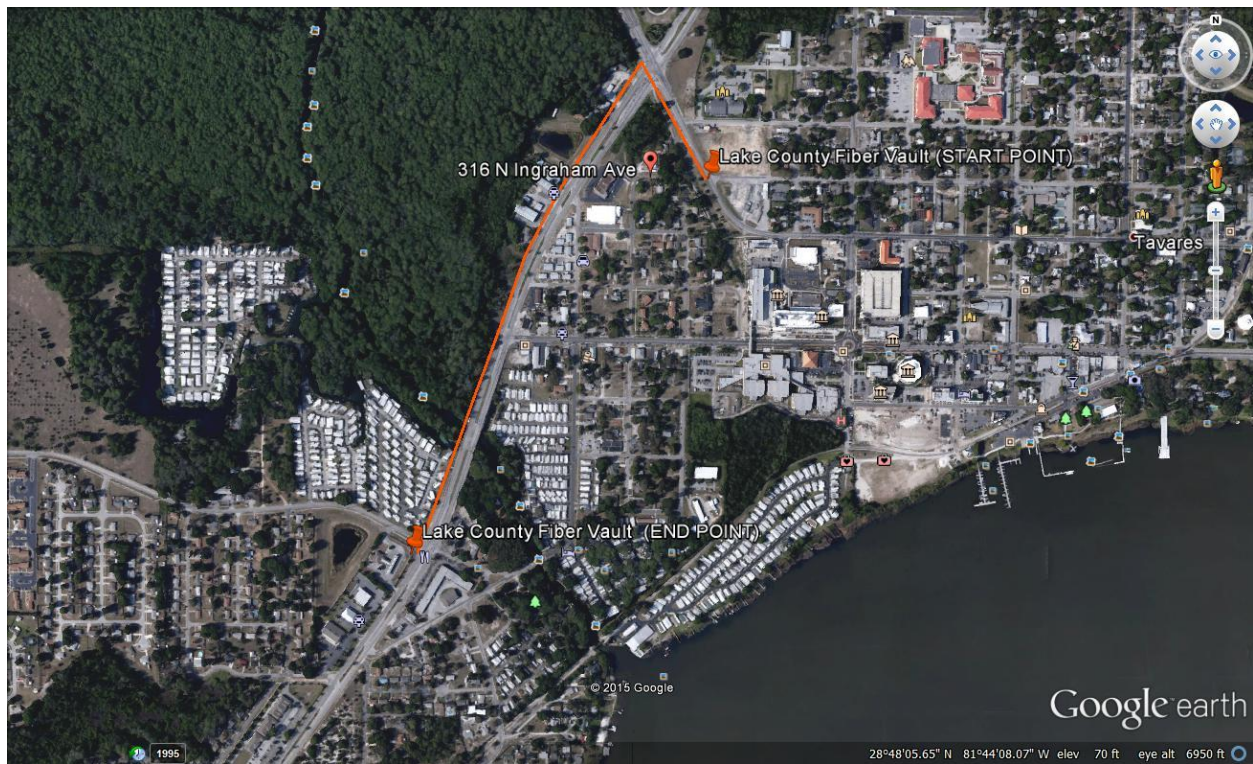
→Escalation Lists

EXHIBIT C **Services That County Shall Provide to City**

REF	SERVICE	ENDPOINT A	ENDPOINT B	MONTHLY DOLLAR VALUE
1	Placement of (i) antenna & associated equipment & cabling on tower and (ii) equipment in equipment hut.	Paisley tower site 25250 County Road 42 Paisley, FL	n/a	\$2,500.00
2	Placement of (i) antenna & associated equipment & cabling on tower and (ii) equipment in equipment hut.	Astor tower site 23025 State Road 40 Astor, FL	n/a	\$2,500.00
3	Dark fiber lease (1 pair)	See Exhibit D	See Exhibit D	\$1,800.00

EXHIBIT D

County Underground Infrastructure





AGENDA MEMORANDUM

Item No: 4.C.3.
Meeting Date: December 7, 2015
From: Jim Lemberg – Manager, Communications Utility
Subject: Resolution approving execution of a pole attachment agreement with Clay Electric Cooperative

Staff Recommendation:

Staff recommends approval of a resolution authorizing execution of a pole attachment agreement with Clay Electric Cooperative, Inc.

Analysis:

At its April 13, 2015 meeting, Commission approved acceptance of a customer order from the Lake County Library System for sixteen Ethernet circuits. One of those circuits will serve the Astor Public Library in the far northeastern corner of Lake County.

The Communications Utility will need to deploy new fiber optic cable in Astor in order to provide service to that library site. The Utility can deploy that new cable by either (i) attaching some of it to the existing utility poles and placing some of it underground or (ii) placing all of it underground. The cost of placing fiber optic cable in underground conduit is typically three to five times as costly as attaching it to existing utility poles. The Utility plans to attach its new fiber optic cables in Astor to the existing utility poles owned by Clay Electric Cooperative. That will necessitate the subject agreement.

Options:

1. Approve the resolution, or
2. Such alternative action as the Commission may deem appropriate.

Fiscal Impact:

The Utility anticipates an annually recurring pole attachment fee of approximately \$1,200.

Submission Date and Time: 12/3/2015 1:25 PM

Department: <u>IT/Communications</u> Prepared by: <u>Jim Lemberg</u> Attachments: Yes <u>X</u> No <u> </u> Advertised: <u>Not Required</u> <u>X</u> Dates: <u>n/a</u> Attorney Review: Yes <u>X</u> No <u> </u> <u>Revised 6/10/04</u>	Reviewed by: Dept. Head <u> </u> Finance Dept. <u> </u> Deputy C.M. <u> </u> Submitted by: City Manager <u> </u>	Account No. <u>045-5023-539-4410</u> Project No. <u>n/a</u> WF No. <u>n/a</u> Budget <u>87,963</u> Available <u>82,641</u>
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RESOLUTION NO. _____

RESOLUTION OF THE CITY COMMISSION OF THE CITY OF
LEESBURG, FLORIDA AUTHORIZING THE MAYOR AND CITY
CLERK TO EXECUTE A POLE ATTACHMENT AGREEMENT
WITH CLAY ELECTRIC COOPERATIVE, INC.; AND
PROVIDING AN EFFECTIVE DATE.

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LEESBURG,
FLORIDA:**

THAT the Mayor and City Clerk are hereby authorized to execute a pole attachment agreement with CLAY ELECTRIC COOPERATIVE, INC., whose address is P.O. Box 308, Keystone Heights, FL 32656, for attaching fiber optic cables to utility poles.

THAT this resolution shall become effective immediately.

PASSED AND ADOPTED by the City Commission of the City of Leesburg, Florida, at a regular meeting held the seventh day of December 2015.

Mayor

ATTEST:

City Clerk

**AGREEMENT FOR JOINT USE OF CLAY ELECTRIC COOPERATIVE, INC.
POLES FOR COMMUNICATIONS SERVICE ATTACHMENTS**

THIS AGREEMENT made this ____ day of _____ 20 15, by and between
CLAY ELECTRIC COOPERATIVE, INC., (hereinafter called the "Owner"), and
CITY OF LEESBURG
(hereinafter called "LEESBURG" or "Licensee"), a _____ organized under the
laws of the State of _____.

WHEREAS, Licensee proposes to install communication facilities in certain geographic areas of (counties): _____ and will need to erect and maintain aerial cables, wires and associated facilities throughout the area to be served and desires to attach such cables, wires and facilities to poles of the Owner; and

WHEREAS, the Owner is willing to permit, to the extent it may lawfully do so, the attachment of said cables, wires and facilities to its poles where, in its judgment, safety will not be adversely affected and such use will not interfere with its own service requirements and with the rights or privileges of other parties using the Owner's poles.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions herein contained, the parties hereto do hereby mutually covenant and agree as follows:

ARTICLE 1

SPECIFICATIONS AND DEFINITIONS

(a) A joint use pole attachment shall be defined as any attachment of Licensee's cables, strands and associated apparatus to an Owner's distribution pole, including overlash of existing facility, provided that only one (1) attachment shall be counted per pole for pole attachment rental purposes. Pedestals and/or above ground enclosures shall not be installed within four (4) feet of Owner's poles.

(b) The joint use of the poles covered by this Agreement shall at all times conform to the requirements of the National Electrical Safety Code and subsequent revisions thereof, except where the lawful requirements of public authorities may be more stringent, in which case the latter will govern. Drawings numbered CATV1, CATV2, CATV3, CATV4, CATV5, CATV6, attached hereto and by this reference thereto incorporated herein, when not otherwise specified by the Cooperative are descriptive of minimum required construction under some typical conditions and will be amended as related Cooperative specifications are changed. The Licensee shall make no connections to any poles that in any way violate the National Electrical Safety Code or any more stringent requirements as provided herein.

(c) The strength of poles covered by this Agreement shall be sufficient to withstand the transverse and vertical loads imposed upon them under the storm loadings of the National Electrical Safety Code assumed for the area in which they are located.

(d) The use of guying and anchoring to accommodate Licensee's attachments shall be provided by and at the expense of Licensee. Licensee shall not attach its guy wires to Owner's anchors. Should Licensee's failure to properly guy cause damage (bowed pole, etc.) to Owner's pole, Owner will change-out pole at Licensee's expense.

(e) The term "communication facilities" as used herein shall mean fiber optic, copper,

and/or coaxial cables and wires utilized to provide communication services (including broadband communication services), including any and all associated equipment, but shall not include wireless antennas, receivers or transceivers.

(f) **OTHER PARTY** is the party not owning a pole.

(g) **OWNER** is the party owning a pole.

(h) **A VERTICAL GROUND WIRE** is a wire conductor of either party attached vertically to a pole extending from the Cooperative's multi-grounded neutral through other party's space to the base of the pole, where it is either butt wrapped on the pole or attached to a ground electrode.

(i) **COMPLEX TRANSFER** is a Transfer involving additional work other than the transfer of strand and the attached cable. Examples include, but are not limited to, cable sheath removal, splicing work, relocation of equipment housings or riser cable(s).

(j) **EMERGENCY** is a situation where a Joint Use Pole is damaged, or subject to failing as a result of an accident or storm, and such failure is reasonably believed to create a risk of personal injury or damage to property.

(k) **NJUNS** is the National Joint Utilities Notification System.

(l) **NTG or NEXT TO GO** is a status indicator in NJUNS notifying either party that the recipient party's job step is next on the ticket.

(m) **TEMPORARY TRANSFER or TEMPORARY PLACEMENT** is the transferring or attaching of the other party's facilities to another pole by the Cooperative, and such transfer or placement shall not be considered permanent by either party.

(n) **TRANSFERRING or TRANSFER** is the removing of attachments from one pole and placing them on another pole.

(o) **DELINQUENT TRANSFER** – a transfer that has not been completed within the standard 60-day period or other period of time mutually agreed upon by both parties via NJUNS since the NJUNS NTG notice.

(p) **TRANSFER COMPLETION** shall be defined as the time that a Transfer is successfully performed in the field without any Code Violations and a notice of transfer step completed has been submitted via NJUNS.

ARTICLE 2

ESTABLISHING JOINT USE OF POLES

(a) Before the Licensee shall make use of any of the poles of the Owner under this Agreement, it shall request permission therefore in writing on the application form attached hereto and identified as Appendix A, and shall furnish the Owner detailed construction plans and drawings prepared by a qualified engineer, registered and currently licensed to practice engineering in the State of Florida, for each pole line, together with necessary maps, indicating specifically the poles of the

Owner to be used jointly, the number and character of the attachments to be placed on such poles, any rearrangement of the Owner's fixtures and equipment necessary for joint use, any relocations or replacements of existing poles, and any additional poles that may be required.

(b) An Application and Permit (Appendix A) shall be submitted to Owner for all attachment requests, including overloading of existing facilities and service drop installations; however, certification by licensed professional engineer is not required for service wire drop installations.

(c) If, in the judgment of the Owner, joint use under the circumstances is undesirable for safety or generally accepted engineering reasons, the Owner shall have the right to reject the application. In any event, within 30 days after the receipt of such application the Owner shall notify the Licensee in writing whether the application is approved or rejected.

(d) The Owner shall review the detailed construction plans and drawings, and will submit to the Licensee within a reasonable time (generally 30 days after receipt of the plans and drawings, or such longer time as is reasonably necessary) a cost estimate (including overhead and less salvage value of materials) for all changes that may be required in each such pole line including an estimated completion date for such changes. Upon payment by the Licensee to the Owner of the cost estimate, the Owner shall immediately proceed with the necessary changes in the pole line covered by the cost estimate and shall diligently expedite the completion thereof within the time specified in the estimate. Nothing in the foregoing shall preclude the parties hereto from making any mutually agreeable arrangement for contracting for or otherwise accomplishing the necessary changes. Upon completion of all changes, the Licensee shall have the right hereunder to jointly use the poles and to make attachments in accordance with the terms of the application and of this Agreement. The Licensee shall, at its own expense, make the approved attachments within 60 days or such longer period as the parties mutually agree in writing, and in such manner as not to interfere with the service of the Owner, and place guys and anchors to sustain any unbalanced loads caused by its attachments.

(e) Before Licensee begins attachments, a preconstruction meeting or telephone call shall be held with Owner. The foreman in charge of actual construction must be present.

(f) Upon completion of all changes in each pole line to be used jointly, the Licensee shall pay to the Owner the actual cost (including overhead and less salvage value of materials) of making such changes. The obligation of the Licensee hereunder shall not be limited to an amount shown on estimates made by the Owner hereunder. An itemized statement of the actual cost of all such changes shall be submitted by the Owner to the Licensee.

(g) All poles jointly used under this Agreement shall remain the property of the Owner, and any payments made by the Licensee for changes in pole lines under this Agreement shall not entitle the Licensee to the ownership of any of said poles.

(h) The Owner reserves the right to exclude any of its facilities from joint use for safety or generally accepted engineering reasons.

(i) Within ten (10) days of completion of all attachments in the request by the Licensee, the engineer who signed the original Appendix A must execute an Appendix A-1. Should the Licensee fail to execute Appendix A-1, the Owner shall, at the expense of the Licensee, inspect the joint use facility for compliance.

ARTICLE 3

RIGHT-OF-WAY FOR JOINT POLES

Although the parties will cooperate as far as practicable in obtaining rights-of-way for both parties on joint poles, the Owner does not warrant or assure to the Licensee any right-of-way privileges or easements on, over, or across streets, alleys, public thoroughfares, or private or publicly owned property, and if the Licensee shall at any time be prevented from placing or maintaining its attachments on the Owner's poles, the Owner shall have no liability or responsibility to the Licensee. Each party shall be responsible for obtaining all necessary easements and permits (including, as the case may be, city, county, or Florida Department of Transportation permits) for its own facilities. If the Licensee has attached to the Owner's facilities without obtaining the necessary easements and permits, the Licensee shall immediately remove its attachments at the request or demand of the property owner, city, county, or Florida Department of Transportation.

ARTICLE 4

MAINTENANCE OF POLES, ATTACHMENTS AND RIGHT-OF-WAY

(a) The Owner shall, at its own expense, maintain the jointly used poles in a safe and serviceable condition and in accordance with the specifications mentioned in Sections (a through e) of Article 1 hereof and shall replace, reinforce or repair such of these poles as become defective.

(b) Whenever right-of-way considerations or public regulations make relocation of a pole or poles necessary, such relocations shall be made by the Owner at its own expense, except that each party shall bear the cost of transferring its own attachments.

(c) (i) When the Owner determines to remove, replace or relocate a joint pole, the Owner shall give notice to the Licensee to allow for planning and scheduling thereof utilizing the NJUNS, specifying in such notice the description of the work involved and the location of the proposed removal, replacement or relocation. The Licensee shall remove or transfer its Attachments to the new or relocated Joint Use Pole within sixty (60) days of a NJUNS NTG notice, which notice shall not be sent until other parties have transferred their attachments.

The sequential order of performing a TRANSFER shall be as follows unless there is a mutually agreed upon arrangement communicated in NJUNS to do otherwise: the party with the highest attachment on the pole shall transfer first followed by the next highest attachment and so on. The Company with the lowest attachment on the pole shall transfer last. At the request of the removing or transferring party, reasonable extensions to the sixty (60) day period will be mutually agreed upon for a COMPLEX TRANSFER that will take more than sixty (60) days to accomplish.

A request by the Transferring party to extend the transfer time beyond sixty (60) days since receipt of the NTG notice shall be made via NJUNS prior to the 60-day expiration period. In situations where Transfers are required by a lawful demand of a property owner, or of a governmental or regulatory authority, the parties shall work together in good faith to expedite the transfer work.

(ii) Should the Licensee fail to transfer its Attachments on a pole within the time period ("Time Period") as outlined above (a "DELINQUENT TRANSFER"), the Owner may also

choose to refuse to permit Licensee to make additional Attachments until such time as all Delinquent Transfers are completed. In addition, should Licensee fail to transfer its Attachments on a pole within the Time Period, the Owner may transfer ownership of the old pole(s) to the Licensee following the Time Period. The transfer of ownership will take effect following written notice to Licensee; no conveyance or bill of sale shall be necessary to effectuate the transfer. Thereafter, the Licensee shall have the responsibility of removing the old pole after the completion of the transfer and shall indemnify and save Owner harmless from all obligations, damage, costs, expense or other charges arising out of the ownership, use, or existence of such pole from and after the date ownership transfers. Where the Cooperative was the owner of such poles, it may cut off the unused portion of the pole above the Licensee's attachments if the old pole structurally conflicts with the newly replaced or relocated pole and electrical attachments thereto. All Delinquent Transfers are subject to a \$100 fee per pole location for the Owner's expense to monitor and report the delinquency. If the Licensee does not Transfer its Attachments from any old poles directly adjacent to new poles within sixty (60) days of the original delinquency date the Licensee shall pay an additional \$100 per pole per each sixty (60) day period until Transfer Completion is achieved regardless of whether a transfer of pole ownership has taken place or not.

(iii) Upon receipt of a NJUNS notification from either party that the other party is the Next To Go, if the receiving party (i.e. party receiving the notification) sends technician(s) or work crews to the site to perform the party's transfer or pole removal work thereafter and the technician(s) or work crews discover that the notice was inaccurate, such that the intended work may not be performed, then the receiving party may invoice the other party for the actual cost of that dispatch or \$100, whichever is greater. If based upon actual costs greater than \$100, the invoice shall include documentation supporting such actual costs and identify the NJUNS ticket. In the event that a party discovers that a notice by the other party in the NJUNS is inaccurate, the party shall endeavor to notify the other party of the inaccuracy.

(d) Except as otherwise provided in Section (e) of this Article, each party shall at all times maintain all of its attachments in accordance with the specifications mentioned in Sections (a through e) of Article 1 hereof and shall keep them in safe condition and thorough repair. All necessary right-of-way maintenance, including tree trimming or cutting, shall be performed by the parties for their respective facilities.

(e) Any existing joint use construction of the parties which does not conform to the specifications mentioned in Article 1 shall be brought into conformity therewith as soon as practicable. Should Owner, during the course of his work, notice a violation and report said violation to the Licensee, the Owner will bill Licensee \$100 per pole to cover cost of reporting said violation. Should the Licensee not correct said violation within sixty (60) days of NJUNS NTG notice, the Licensee shall be responsible to pay an additional \$100 per each sixty (60) day period until such violation is corrected. The Licensee shall also be solely responsible for answering and complying with all Commission orders with respect to such violations.

When such existing construction shall have been brought into conformity with said specifications, it shall at all times thereafter be maintained as provided in Sections (a - e) of Article 1.

When such existing construction shall have been brought into conformity with said specifications, it shall at all times thereafter be maintained as provided in Sections (a) and (d) of this Article.

(f) Should Licensee not correct said violations in timely manner, the Owner reserves the

right to correct said violations at Licensee's expense.

(g) Unless Licensee deploys all-dielectric Self-supporting cable containing no metallic elements Licensee shall bond its attachments on joint poles to the vertical ground wire. The Licensee shall not break, cut, sever, or otherwise damage the vertical ground wire of the Cooperative.

(h) In the event the Licensee exposes an Owner's joint use pole below ground level, such party shall promptly perform treatment required by the Owner to prevent any damage and decay to the pole. Should the Licensee fail to treat the pole, the Owner of the pole may perform the required treatment and the cost thereof shall be borne by the Licensee.

(i) If any of Licensee's facilities are found occupying an Owner pole for which an approved permit has not been issued, the Owner may assess an Unauthorized Attachment Fee of \$50 per pole. Licensee shall submit an Application and Permit to request permission to remain attached to Owner's pole. In the event Licensee fails to submit an application to remain attached to Owner's poles and/or fails to pay such fee within thirty (30) calendar days of receiving notification thereof, Owner has right to remove such attachments at Licensee's expense. The Unauthorized Attachment Fee shall be in addition to any and all other applicable fees, including without limitation, Pole Attachment Rental Fees due and payable for current year and all prior years in which the Unauthorized Attachment existed. Nothing herein shall act to limit any other remedies, including trespass that may be available to Licensor as a result of any Unauthorized Attachment.

Owner Failure to Act – No act or failure to act by Owner with regard to any Unauthorized Attachment shall be deemed to ratify or license the Unauthorized Attachment. If an Application for such attachment is subsequently approved, such approval shall not operate retroactively to constitute a waiver by Owner of any of its rights under this Agreement regarding the Unauthorized Attachment, and Licensee shall be subject to all liabilities, obligations and responsibilities of this Agreement from the inception of such Unauthorized Attachment with regard to any such Unauthorized Attachment.

ARTICLE 5

INSURANCE AND BONDS

(a) The Licensee shall take out and maintain throughout the period during which this Agreement shall remain in effect, the following minimum insurance. These insurance requirements must also be met by all contractors used by the Licensee:

1. Worker's compensation insurance covering all employees of the Licensee who shall perform any of the obligations of the Licensee hereunder, whether or not such insurance is required by the laws of the State governing the employment of any such employee. If any employee is not subject to the worker's compensation laws of such State, such insurance shall extend to such employee voluntary coverage to the same extent as though such employee were subject to such laws.
2. Public liability and property damage liability insurance covering all operations under this Agreement for bodily injury or death not less than \$1,000,000 for one person and \$3,000,000 for each accident; for property damage, not less than \$1,000,000 for each accident and \$3,000,000 aggregate for accidents during the policy period.
3. Automobile liability insurance on all self-propelled vehicles used in connection with

this Agreement whether owned, non-owned, or hired; public liability limits of not less than \$1,000,000 for one person and \$1,000,000 for each accident; property damage limit of \$1,000,000 for each accident.

The policies of insurance shall be in such form and issued by such insurer as shall be licensed to do business in the State of Florida. The Licensee shall furnish to the Owner, with its first application for joint use hereunder, a certificate evidencing compliance with the foregoing requirements. At the request of the Owner, the Licensee shall include the Owner as a named insured in all of its public liability and property damage insurance policies. This contract is to be considered an "insured contract" and the Owner is to be considered an "Additional Covered Party" under Licensee's insurance policies. The current endorsement to Licensee's Insurance contracts is included as an exhibit to this contract and Licensee will provide Owner with any new versions as they are received by Licensee.

(b) The Licensee shall furnish a bond issued by a corporate surety acceptable to the Owner to guarantee the payment of any sums which may become due to the Owner for rentals, inspections, or for any other work performed for the benefit of the Licensee under this Agreement including the removal of attachments upon termination of this Agreement by any of its provisions as provided on the attached schedule of required bond coverage. Licensee shall furnish additional bond coverage as provided in Appendix B within thirty (30) days of reaching next level for additional number of attachments due to system growth, acquisition of additional facilities or for any other reason.

ARTICLE 6

RECOVERY OF SPACE BY OWNER

(a) If Owner shall at any time require, for Owner's core electric service requirements, the space occupied by Licensee's attachments on Owner's poles, Licensee shall remove its attachments within sixty (60) calendar days after receipt of written notice from Owner of Owner's need for such space. Upon the failure of Licensee to remove its attachments within such period, or such other mutually agreed upon time, Owner may remove such attachments, and Licensee shall pay Owner the actual cost of removal thereof. Owner shall not be responsible to Licensee for any damage that may occur to Licensee because of the removal of attachments under the provisions of this subsection.

(b) The Licensee may, after receiving the notice to remove as provided in (a) of this Article, submit a written request to the Owner to upgrade the Owner's pole or poles to provide sufficient space to accommodate Licensee's attachments all at Licensee's expense. In such case, Licensee shall follow the application and approval process as set forth in Article 2.

(c) For a pole upgrade in subsection (b) of this Article, Owner shall bear the expense of the pole upgrade if Licensee's existing attachments are in compliance with this Agreement, and one of the following situations apply: 1. The existing primary pole length is 35 feet or less, or 2. The resulting pole upgrade is within 5 feet of the standard pole length for Owner's proposed pole top application. Licensee shall be responsible for any cost differences above the standard pole for pole upgrades over 5 feet to accommodate the joint use attachments. The pole length shall reference the total length of the pole, including portions above and below ground. If a practical solution cannot be achieved that will allow Licensee's attachments to remain on the pole, Licensee shall be responsible for the cost to remove its attachments. Licensee shall be responsible for the cost of relocating its attachments under all circumstances.

ARTICLE 7

ABANDONMENT OF JOINTLY USED POLES

(a) If the Owner desires at any time to abandon any jointly used pole, it shall give the Licensee notice in writing to that effect at least 60 days prior to the date on which it intends to abandon such pole. If at the expiration of said period the Owner shall have no attachments on such pole but the Licensee shall not have removed all of the attachments therefrom, such pole shall thereupon become the property of the Licensee, and the Licensee shall save harmless the Owner from all obligation, liability, damages, cost, expenses or charges incurred thereafter; and shall pay the Owner for such pole an amount equal to the Owner's depreciated cost thereof. The Owner may further evidence transfer to the Licensee of title to the pole by means of a bill of sale, but title to such pole and the liability of Licensee shall be effective at the end of such 60-day period whether or not a bill of sale is delivered to Licensee.

(b) The Licensee may at any time abandon the use of a joint pole by giving due notice thereof in writing to the Owner and by removing therefrom any and all attachments it may have thereon. The Licensee shall in such case pay to the Owner the full rental for said pole for the then current year.

ARTICLE 8

RENTALS

(a) On or about December 31 of each year the parties acting in cooperation shall tabulate the total of the number of poles in joint use as of the preceding day and the number of poles on which the Licensee removed all of its attachments during the twelve preceding months, which tabulation shall indicate the number of poles on which rentals are to be paid.

(b) Licensee shall furnish annually a set of strand maps or other form of documentation acceptable to Owner to inform Owner of precise location and total number of Licensee's attachments.

(c) The rental fee per pole for the first year of this Agreement due from the Licensee to the Owner shall be \$23.50 per annum which shall be paid by the Licensee to the Owner for each jointly used pole as shown by the annual tabulation of joint poles provided for herein. The aforesaid sum shall be paid for each pole upon which an attachment existed at any time during the year whether it existed for twelve (12) months or less. Pole rental fees for future years shall be based on subsection (e) of this Article 8.

(d) A field count of the number of pole attachments shall be made every three (3) years or more often as deemed necessary by the Owner to determine the actual number of attachments. If the number of joint use poles found by the inventory is greater than the number arrived at by the tabulation of part (a) above, correction will be made by retroactive billing through proration of the difference over the years since the last inventory or three (3) years, or whichever is less. Such retroactive billing shall not include a credit or reimbursement for attachment fees previously paid by Licensee for Licensee's attachments that were removed by the Licensee without notice to the Owner. A notice of the making of a field inventory shall be given thirty (30) days in advance and Licensee shall provide an employee or employees at the cost of Licensee to assist in performing such count. Should the Licensee choose not to participate in the inventory, the Owner will perform the count independent of Licensee and Licensee shall accept the results without dispute.

(e) The rental per pole specified in subsection (c) of this Article 8 shall be adjusted on January 1 of each subsequent year (commencing January 1, after the original date of the agreement) based on any annual percentage increase in the Consumer Price Index (all urban consumers, all items). The rental per pole shall increase by the percent change of the CPI from December to December of the previous year with the December prior to the date of the agreement being the base year.

Annual rentals due for attachments shall be based on subsections (a) and (c) of this Article 8. The Parties recognize that as of the date of this agreement, Licensee has no existing attachments on the Owner's poles and so there will not be a beginning attachment inventory. If the Parties shall amend this agreement or enter into a new agreement regarding pole attachments, the number of pole attachments as of the date of the agreement shall be based on the most recent attachment inventory or annual billing completed and will include completed permits for additional attachments or notification for removal of attachments completed prior to the date of the agreement.

ARTICLE 9

RIGHTS OF OTHER PARTIES

(a) If the Owner, prior to the execution of this Agreement, has conferred, or hereafter confers, upon others, not parties to this Agreement, by contract or otherwise, rights or privileges to use any poles covered by this Agreement, nothing herein contained shall be construed as affecting such rights or privileges, and the Owner shall have the right, by contract or otherwise, to continue or extend such existing rights or privileges. Prior to making any attachments to any pole or poles of the Owner hereunder, the Licensee shall notify any such other parties in writing of the Licensee's proposed use of such pole or poles and any attachment privileges granted to the Licensee hereunder shall be subject to any rights or privileges which shall have been theretofore conferred by the Owner upon any such other parties. Any consideration received by the Owner for the granting of such privileges to others shall be the property of the Owner and will not be shared with Licensee.

(b) Where municipal regulations require the Owner to allow the use of its poles for fire alarm, police, or other like signal systems, such use shall be permitted under the terms of this Article.

ARTICLE 10

ASSIGNMENT OF RIGHTS

REFER TO ARTICLE 24

ARTICLE 11

WAIVER OF TERMS OR CONDITIONS

The failure of either party to enforce or insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a general waiver or relinquishment of any such terms or conditions, but the same shall be and remain at all times in full force and effect.

ARTICLE 12

DEFAULTS

(a) By Licensee:

1. Event of Default. Each of the following events shall be a default hereunder by Licensee and a breach of this Agreement:

(i) Voluntary Bankruptcy. If Licensee (or any successor or assignee of Licensee) shall file a petition in bankruptcy or insolvency or for reorganization or arrangement under the bankruptcy laws of the United States or any insolvency act of any state or shall voluntarily take advantage of any such law or act by answer or otherwise or shall be dissolved or shall make an assignment for the benefit of creditors.

(ii) Involuntary Bankruptcy/Receivership. If involuntary proceedings under any such bankruptcy law or insolvency act or for the dissolution of a corporation shall be instituted against Licensee (or such successor or assignee) or if a receiver or trustee shall be appointed of all or substantially all of the property of Licensee (or such successor or assignee) and such proceedings shall not be dismissed or such receivership or trusteeship vacated within 90 days after such institution or appointment.

(iii) Failure to Pay Rental Fees. If Licensee shall fail to pay Owner any amount of rental fees or other sums due Owner as and when the same shall become due and payable and shall not make such payment within 30 days after notice thereof by Owner is received by Licensee.

(iv) Failure to Perform. If Licensee shall fail to perform any of the other Agreements, terms, covenants, or conditions hereof on Licensee's part to be performed and such nonperformance shall continue for the period within which performance is required to be made by specific provision of this Agreement, or if no such period is so provided for a period of 30 days, in each case after notice thereof by Owner is received by Licensee or, if such performance cannot be reasonably had within such 30-day period, or other time period specified in this Agreement, such additional period of time as is needed to complete such performance, provided Licensee shall in good faith have commenced such performance within such 30-day period and shall diligently and continuously proceed therewith to completion.

2. Remedies.

(i) Termination of Agreement. In the event of any such default, Owner shall have the right to terminate this Agreement, as well as all of the right, title and interest of Licensee hereunder, by giving to Licensee not less than 30 days' notice of such termination, and upon the expiration of the time fixed in such notice, if the default complained of remains in effect, this Agreement, as well as all of the right, title and interest of Licensee hereunder, shall expire in the same manner and with the same force and effect as if Licensee allowed this Agreement to expire at the end of its term. In the event of termination of this Agreement by service of notice of termination as herein provided, or otherwise, Owner may through lawful means repossess the Licensed Space and Licensee shall vacate Owner's poles by removing Licensee's attachments and shall remain liable for payment of all sums due Owner.

(ii) Injunction. In the event of a breach by Licensee of any of the

Agreements, terms, covenants or conditions hereof, Owner shall also have the right to seek injunction to restrain the same and the right to invoke any remedy allowed by law or in equity, as if specific remedies, indemnity or reimbursement were not herein provided.

(iii) Non-Waiver. No receipt of monies by Owner from Licensee, after the cancellation or termination hereof in any lawful manner, shall reinstate, continue or extend this Agreement, or affect any notice theretofore given to Licensee or operate as a waiver of the right of Owner to enforce the payment of rent then due and remaining unpaid or thereafter falling due, or operate as a waiver of the right of Owner to recover possession of the premises by proper suit, action, proceeding or other remedy.

3. Remedies Cumulative. The rights and remedies given to Owner in this Agreement are distinct, separate and cumulative, and no one of them, whether or not exercised by Owner, shall be deemed to be in exclusion of any of the others herein or by law or in equity provided.

4. Waiver of Jury Trial. Each of Owner and Licensee waives the right to trial by jury in any action or proceeding that may hereafter be instituted by or against it, provided such waiver is not prohibited by law.

(b) By Owner: Should the Owner fail to carry out any of its obligations under this Agreement, it shall be in default. If such default shall continue for more than 60 days after Licensee has delivered written notice to Owner specifying in detail the factual basis for such claim of default, then Licensee shall have the right to pursue all legal and equitable remedies available to Licensee. Provided, however, that if curing any claimed default cannot be reasonably had within such 60-day period, Owner shall have such additional period of time as is needed to complete any cure, provided that Owner shall in good faith shall have commenced such cure within the 60-day period and shall diligently and continuously proceed to completion.

(c) No Offset: Except as otherwise provided herein, Licensee shall not be entitled to offset any claimed damages, costs, expenses or defaults by Owner against any sums that are due and owing the Owner, on a monthly basis or otherwise, unless a court of competent jurisdiction has entered an order finding that the Owner is at fault for any said claimed damages, and awards damages to the Licensee.

ARTICLE 13

PAYMENT OF TAXES

Each party shall pay all taxes and assessments lawfully levied on its own property upon said jointly used poles, and the taxes and the assessments which are levied on said joint poles shall be paid by the Owner thereof, but any tax, fee, or charge (excluding income taxes) levied on the Owner's poles solely because of their use by the Licensee shall be paid by the Licensee.

ARTICLE 14

INTEREST AND PAYMENTS

All amounts to be paid by the Licensee to the Owner under this Agreement shall be due and payable within 30 days after an itemized statement shall have been sent to the Licensee per Article 15 below. Any payment not made within 30 days from the due date shall thereafter bear interest at the

rate of 18% per annum or the highest legal rate, whichever is the lesser, until paid.

ARTICLE 15

SERVICE OF NOTICES

All notices required or permitted by this Agreement shall be in writing and shall be delivered to the other party by one of the following methods: hand delivery, United States mail (registered or certified, postage prepaid with return receipt request), courier service such as Federal Express or United Parcel Service provided the courier service provides a written receipt, National Joint Utilities Notification System (NJUNS), by facsimile (fax) for which a confirmation notice of delivery is provided or electronic mail (e-mail) is an acceptable method for delivering written notices.

All such notices shall be delivered to the following locations:

As to the Owner:

Clay Electric Cooperative, Inc.
ATTN: Engineering Department
225 West Walker Drive
Post Office Box 308
Keystone Heights, Florida 32656
Facsimile: (352) 473-1306

As to the Licensee:

If by USPS

Manager, Communications Utility
City of Leesburg
P.O. Box 490630
Leesburg, FL 34749-0630

If by delivery service
Manager, Communications
City of Leesburg
318 S. 2nd St
Leesburg, FL 34748

If by Facsimile
(352)435-9451

If by Email:
communications.manager@LeesburgFlorida.gov

The parties may change their respective addresses by written notice in accordance with this section. Any notice sent by United States mail shall be deemed delivered 2 days after the postmark of such notice. All other notices shall be deemed delivered at the actual time of delivery.

ARTICLE 16

CONTACT INFORMATION

Licensee shall furnish contact information annually or as otherwise necessary as requested for person(s) authorized or assigned to handle contract items such as billing, permitting and request to transfer facilities, etc. The contact information shall be furnished for each of Owner's District areas:

Gainesville, Keystone Heights, Lake City, Orange Park, Palatka, Salt Springs

Owner will furnish contact information upon request.

ARTICLE 17

TERM OF AGREEMENT

(a) The term of this Agreement commences on the date of the executed agreement and shall continue for a period of two (2) years from said date through December 31 and shall continue thereafter from year to year unless terminated by either party by giving the other party notice of its intention to terminate at least 6 months prior to the end of any annual period

(b) Upon termination of this Agreement, Licensee shall remove all of its attachments from all of the Owner's poles within 60 days. If any attachments are not so removed within 60 days following such termination, Owner shall have the right to remove such attachments, and to, dispose of or sell the same at Licensee's sole expense and without any liability to Licensee.

ARTICLE 18

MEDIATION

In the event a dispute shall arise between the parties to this Agreement, the parties agree to participate in at least eight (8) hours of mediation in accordance with the mediating procedure of a mediator (i) licensed to practice law in the State of Florida, (ii) certified as a mediator by the Florida Supreme Court as a Mediator in civil litigation, and (iii) who has a principal place of business to conduct such mediation within the service area of Owner. The parties agree to share equally in the costs of mediation. "Mediation" as used herein means that each side to the dispute shall sit down with an impartial person, the mediator, to attempt to reach a voluntary settlement. Mediation involves no formal court procedures or rules of evidence, and the mediator does not have the authority to render a binding decision or to enforce the Agreement between the parties. In the event that the mediation does not result in a resolution of the dispute, each party shall be then free to pursue any legal remedies available to it, provided, however, that no legal or administrative proceeding may be filed by either party regarding the unresolved dispute until at least ten (10) days shall have passed following the mediation. If the parties cannot agree on a single mediator, then each shall select their own, and the mediators so selected shall conduct the mediation jointly. In that case, each party shall bear the cost of its own selected mediator. This Article shall not apply to monetary defaults by Licensee. The provisions of this Article 18 shall not limit either party's right to seek injunctive or other equitable relief in connection with this Agreement.

ARTICLE 19

INDEMNIFICATION AND LIABILITY

(a) **Licensee Indemnification.** Licensee shall indemnify, protect, save harmless and insure Owner, its officers, directors, employees and members, from and against any and all claims and demands for, or litigation with respect to, service interruptions, damages to property and for injury or death to persons, including payments made under any Workers' Compensation Law or under any plan for employee disability and death benefits and including all expenses incurred in defending against any such claims or demands, or other damages which may arise out of or be caused by Licensee or its agents, employees, contractors or subcontractors with respect to the erection, operation, maintenance, presence, use, repair, rearrangement or removal of Licensee's attachments or unauthorized attachments or the proximity of Licensee, its agents and employees on or in the vicinity of Owner's distribution poles.

(b) **Owner Indemnification.** Owner shall indemnify, protect, save harmless and insure Licensee from and against any and all claims and demands for, or litigation with respect to, damages to property, and for injury or death to persons, including payments made under any Workers' Compensation Law or under any plan for employee disability and death benefits and including all expenses incurred in defending against any such claims or demands, which may arise out of or be caused by any gross negligence or willful misconduct of Owner or its agents, employees, contractors or subcontractors on or in the vicinity of Licensee's authorized attachments.

(c) **Notice.** In the event of any claim, demand or litigation specified in this section, the party to be indemnified (the "Indemnified Party") shall give prompt notice to the other party (the "Indemnifying Party") of such claim, demand or litigation. The Indemnifying Party shall have sole control of the defense of any action or litigation on such a claim or demand (including the selection of appropriate counsel) and all negotiations for the settlement or compromise of the same, except that the Indemnifying Party may not make any non-monetary settlement or compromise without the Indemnified Party's consent, which consent shall not be unreasonably withheld. The Indemnified Party shall cooperate with the Indemnifying Party in the defense and/or settlement of any claim, demand or litigation. Nothing herein shall be deemed to prevent the Indemnified Party from participating in the defense and/or settlement of any claim, demand or litigation by the Indemnified Party's own counsel at the Indemnified Party's own expense.

(d) **LIMITATIONS ON DAMAGES.** **UNLESS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES SUFFERED BY SUCH OTHER PARTY OR BY ANY SUBSCRIBER, CUSTOMER OR PURCHASER OF SUCH OTHER PARTY OR FOR LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, WHETHER BY VIRTUE OF ANY STATUTE, IN TORT OR IN CONTRACT, UNDER ANY PROVISION OF INDEMNITY, OR OTHERWISE, REGARDLESS OF THE THEORY OF LIABILITY UPON WHICH ANY SUCH CLAIM MAY BE BASED.**

(e) In no event, however, shall the aggregate liability of either Party to the other, under any circumstances arising under this Agreement, or in any way related to Licensee's use, operation and maintenance of its attachments and related facilities on Owner's poles, exceed \$200,000 per person and \$300,000 per incident or occurrence.

ARTICLE 20

Article 20 has been left blank.

ARTICLE 21

INSPECTION

(a) **LICENSEE UNDERSTANDS AND ACKNOWLEDGES THAT WORK ON OR AROUND POLES USED FOR ELECTRIC TRANSMISSION AND DISTRIBUTION IS INHERENTLY DANGEROUS, ULTRA-HAZARDOUS WORK.** Prior to undertaking any work or other activities in and around Owner's poles and other electric facilities, Licensee shall take all reasonable steps necessary to protect persons and property against any injury or damage that may result from the presence, installation, use, maintenance, or operation of Licensee's attachments and to avoid interference to Owner's safe and efficient operation of its electric distribution system. Licensee shall have a duty to inspect the areas in and around Owner's facilities prior to any installation or maintenance of any of its attachments. Licensee shall insure that all its employees, agents, and contractors used to inventory, install, or maintain any of Licensee's facilities shall have been certified or trained to work in the vicinity of electric transmission and distribution facilities and poles, and Licensee shall have a duty to warn all such employees, agents, and contractors of the dangers of working in the proximity of Owner's electric facilities.

(b) **Assumption of Risk.** Licensee expressly assumes responsibility for determining the condition of all poles to be utilized by its employees, agents, contractors or subcontractors for its attachments. Licensee assumes all risks related to the construction, operation and maintenance of its attachments.

ARTICLE 22

ENVIRONMENTAL SAFETY

Licensee represents and warrants that its use of Owner's poles will not generate any hazardous substances, and that it will not store or dispose on or about Owner's utility poles/distribution system, or transport to Owner's poles/distribution system any hazardous substances, and that Licensee's attachments and related facilities will not constitute or contain and will not generate any hazardous substances or other environmental conditions in violation of federal, state or local laws now or hereinafter in effect, including any amendments thereto. Hazardous substances shall be interpreted broadly to mean those substances or materials designated as hazardous, toxic, or radioactive, including radio frequency radiation as defined by any federal, state or local laws, regulations or rules now or hereafter in effect, including any amendments.

ARTICLE 23

FORCE MAJEURE

Neither party shall be liable to the other for any failure of performance hereunder due to causes beyond its reasonable control, including, but not limited to:

- (a) Acts of God, fire, explosion, vandalism, storm, hurricanes, or other similar occurrences;
- (b) National emergencies, insurrections, riots, acts of terrorism, or wars; or
- (c) Strikes, lockouts, work stoppage, or other labor difficulties.

To the extent practicable, the parties shall be prompt in restoring normal conditions, establishing new schedules, and resuming operations as soon as the force majeure event causing the failure or delay has ceased. Each party shall promptly notify the other party of any delay in performance under this section and its effect on performance required under this Agreement. This section shall not apply to payment obligations of Licensee due to Owner for the rental of space on the Owner's poles as provided in this Agreement.

ARTICLE 24

ASSIGNMENT AND TRANSFER

Licensee may not assign or otherwise transfer (collectively referred to as "assign") any of its rights or obligations under this Agreement to any person(s), or any other entity or entities without the prior written consent of the Owner provided that Licensee may, without necessity of consent to the Owner, assign this Agreement to any person or entity acquiring all or substantially all of Licensee's assets, or a greater than 50 percent (%) interest in Licensee. Owner may condition such consent on the assignee's Agreement to additional or modified terms and conditions. Owner shall not consider approval of any assignment until Owner shall have received from Licensee advance written notice of the proposed assignment, and the written Agreement of the proposed assignee that upon acceptance by Owner of the assignment, assignee shall assume all of Licensee's obligations under this Agreement, including, but not limited to, any past due rental attachment fees and any other past fees that may be due Owner as provided in Article 8(d). Upon any such assignment, Licensee shall remain fully responsible for the payment of all rents due (past or present) unless Owner agrees in writing that the assignee is credit worthy and capable of satisfying the remaining rental obligations due under the Agreement. For purposes of this Article, a change in control of Licensee shall be treated as if it were an assignment, subject to this Article.

ARTICLE 25

MISCELLANEOUS

(a) This Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors, administrators, receivers, and assigns.

(b) This is the entire Agreement between the parties and supersedes all prior Agreements, understandings and negotiations, whether oral or written, in connection with the subject matter hereof. No amendment or modification of this Agreement shall be effective until the same be reduced to writing and signed by both parties hereto. Provided, however, that this provision shall not diminish, revoke, eliminate or effect any rights, claims, or damages that may have accrued to either party under any prior Agreement that this Agreement supersedes, including, but not limited to, any amount still due and owing from Licensee to Owner, and any amounts that may be determined to be due on account of any recount or inventory for the actual number of pole attachments of Licensee in the three (3) years preceding this Agreement, and any retroactive billing that may have been provided for in such prior Agreements.

(c) The parties hereto irrevocably waive the right to a trial by jury of all issues so triable that arise out of or under this Agreement, or concerning the parties' rights, responsibilities and obligations hereunder.

(d) This Agreement shall be interpreted and construed in accordance with the laws of the State of Florida without regard to the party or parties deemed to have drafted it.

(e) The venue for all legal and administrative proceedings arising out of this Agreement, to interpret it, or to enforce the provisions hereof, shall be brought exclusively in the Circuit Court in Clay County, Florida.

(f) If either party fails to cure a default with respect to any of its obligations under this Agreement and it becomes necessary for the other party to obtain the services of an attorney to enforce its rights under this Agreement, the defaulting party agrees to pay all reasonable attorney's fees, expenses and court costs of litigation associated with such enforcement if the other party is successful.

(g) The failure of either party to enforce or insist upon the compliance with any of the terms or conditions of this Agreement shall not constitute a general waiver or relinquishment of any such terms or conditions, but such conditions and terms shall be and remain at all times in full force and effect.

(h) Except as otherwise specified in this Agreement, this Agreement may be amended or supplemented at any time only upon the written Agreement of the parties hereto. Notwithstanding the foregoing, Owner may modify Appendix A, Appendix A-1, and the engineering diagrams identified as CATV-1 through CATV-6 by giving Licensee 30 days advance written notice, provided that such modification shall be reasonable. Any changes mandated by the National Electrical Safety Code shall be deemed to be reasonable. Except as previously stated, this Agreement may not be amended or modified without the written agreement of the parties hereto.

In witness whereof, the parties hereto have caused this Agreement to be duly executed.

ATTEST:

CLAY ELECTRIC COOPERATIVE, INC.
Owner

Its Secretary

By _____
General Manager and CEO

ATTEST:

Licensee

Its Secretary

By _____
Its: _____

APPENDIX A

APPLICATION AND PERMIT

To _____
Name of Electric System _____ *Date* _____

Address _____ *Request Number* _____

This is to request permission for this Company to use jointly certain of your poles under the terms and conditions of our Agreement for Joint Use of Electric

System Poles dated _____.

The poles, including the number and character of facilities to be placed thereon, for which this permission is requested, are those included in the pole lines indicated on the attached maps, which also bears the above date and Request Number.

Our present plan is to start this work about _____, 20_____, *and*
complete the work about _____, 20_____.

Attached are detailed construction plans and drawings, together with necessary maps, to indicate specifically your poles that we wish to use jointly, the number and character of the facilities to be placed on such poles, and any rearrangements of fixtures and equipment necessary, as well as any relocation or replacements of existing poles, and any additional poles that may be required, in accordance with the procedure provided in Article 2 of the Agreement.

This Company has obtained all authorizations, permits and approvals from all Municipal, State and Federal authorities to the extent required by law for the Licensee's proposed service and all easements, licenses, rights-of-way and permits necessary for the proposed use of these poles.

If the joint use proposed is agreeable, please signify your approval of this request in the space provided and return the second copy to us.

Name of Applicant _____ *Signature of Applicant's Representative* _____

Address _____ *Title* _____

APPLICATION AND PERMIT

I hereby certify that attachments requested fully comply with the National Electrical Safety Code (NESC), latest edition, and no poles or facilities of Clay Electric Cooperative, Inc., will be in violation of NESC as result of said attachments.

Engineer's Signature

Registration No. (if applicable)

Permit Granted _____, 20____

Permit No. _____

Permit Denied _____, 20____

Total Previous Poles _____

Poles this Permit _____

By: _____

New Total Poles _____

Title: _____
Clay Electric Cooperative, Inc.

Estimated Cost \$ _____
(Payable in Advance)

**Permit automatically expires 60 days after approval if no attachments are made.*

APPENDIX A-1

FINAL INSPECTION CERTIFICATION

TO: _____
Name of Electric System *Date*

Address

I hereby certify that attachments requested by _____

on _____, *20*____, *permit number* _____ *have been completed and are in full compliance with the National Electrical Safety Code, latest edition, and no poles or facilities of Clay Electric Cooperative, Inc., are in violation of NESC as result of said attachments.*

Engineer's Signature

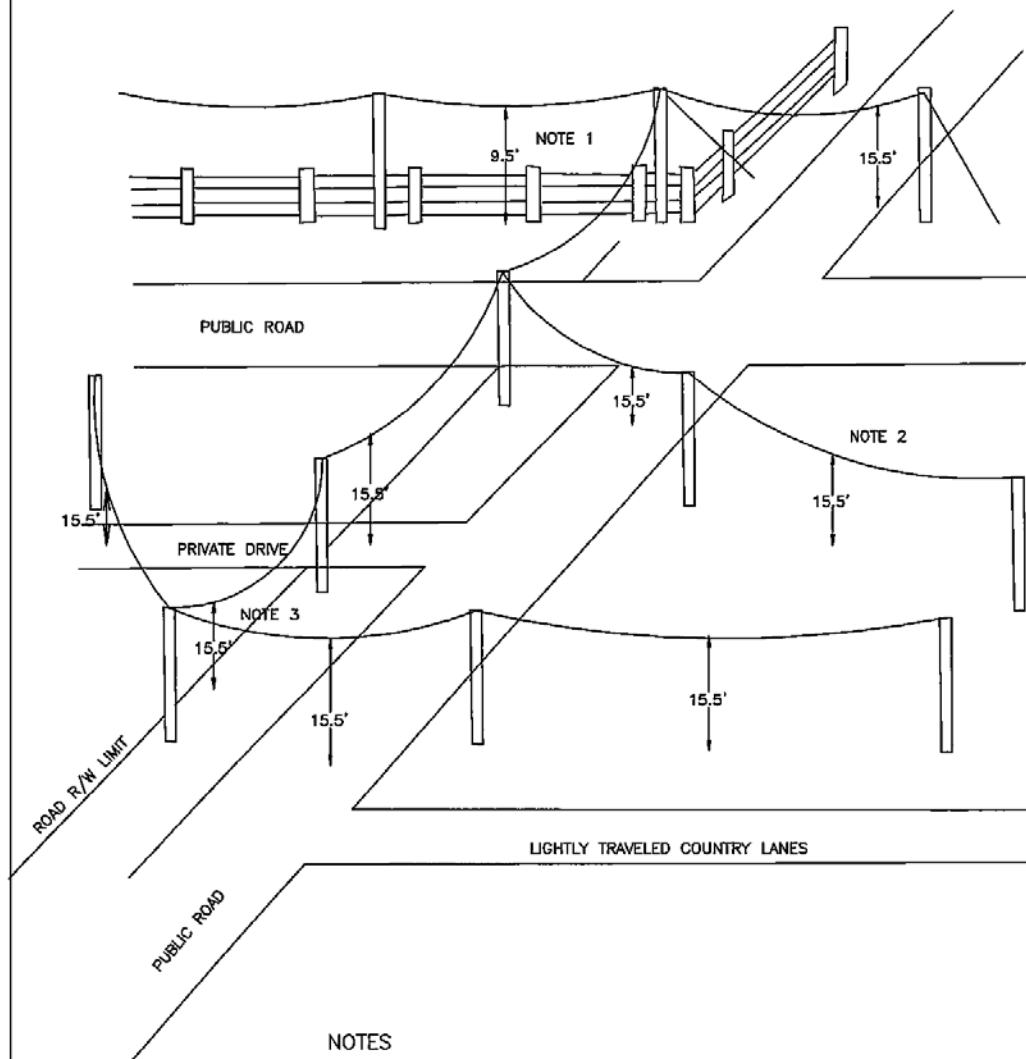
Registration No. (if applicable)

APPENDIX B

SCHEDULE OF REQUIRED BOND COVERAGE

<i><u>Number of Attachments</u></i>		<i><u>Amount of Coverage</u></i>
<i>0</i>	<i>500</i>	<i>\$15,000</i>
<i>501</i>	<i>1,000</i>	<i>\$30,000</i>
<i>1,001</i>	<i>1,500</i>	<i>\$45,000</i>
<i>1,501</i>	<i>2,000</i>	<i>\$60,000</i>
<i>2,001</i>	<i>2,500</i>	<i>\$75,000</i>
<i>2,501</i>	<i>3,000</i>	<i>\$90,000</i>
<i>3,001</i>	<i>4,000</i>	<i>\$120,000</i>
<i>4,001</i>	<i>5,000</i>	<i>\$150,000</i>
<i>5,001</i>	<i>7,500</i>	<i>\$225,000</i>
<i>7,501</i>	<i>10,000</i>	<i>\$300,000</i>
<i>Over</i>	<i>10,000</i>	<i>\$420,000</i>

Oserv.doc\agree.CATV Joint Use Agree City of Leesburg 10/2015 rhf edits.pj



NOTES

1. ACCESSIBLE TO PEDESTRIAN ONLY
2. PRIVATE PROPERTY (CULTIVATED, GRAZING, FOREST, ORCHARDS, ETC.) TRAVELED BY FARM MACHINERY OR OTHER VEHICLES.
3. GROUND NOT ORDINARILY TRAVELED BUT CAN BE REACHED BY VEHICLES.

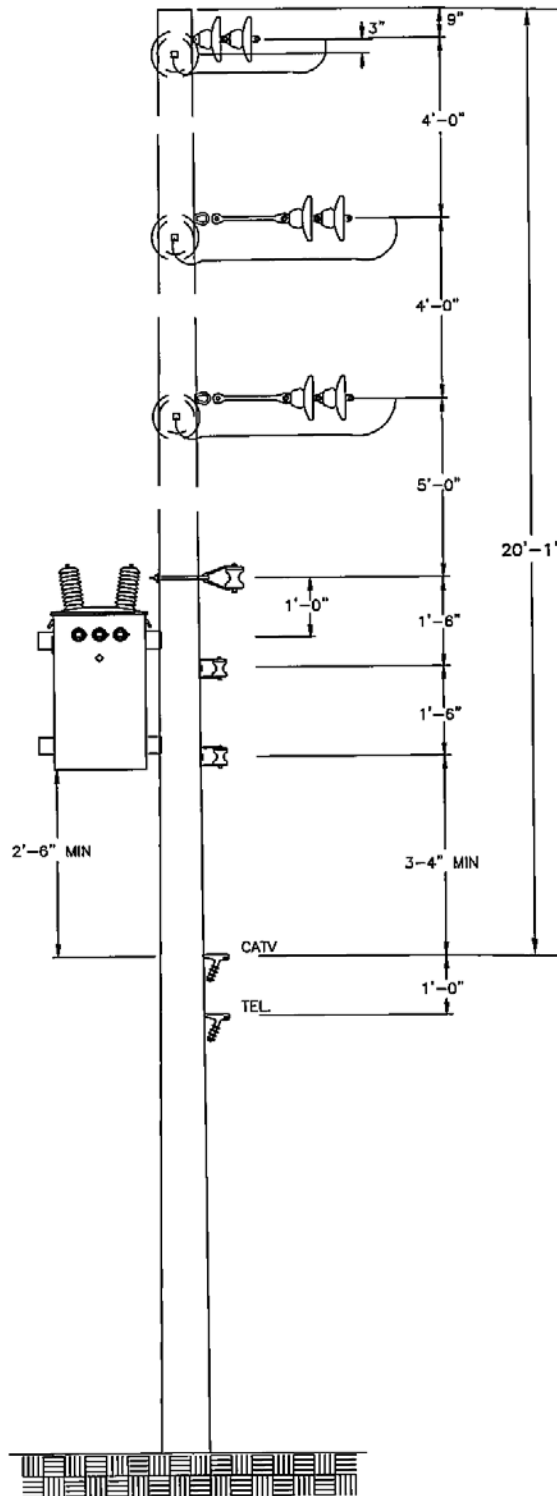
* DIMENSIONS SHOWN ARE AT MAXIMUM TEMPERATURE OF CABLE

Last Revision: 12/29/2008 (FH) Revised clearances to comply with latest version of NESC.

PREPARED BY: H. DYAL	SUBJECT: RURAL AREA VERTICAL CABLE CLEARANCES CATV & TELEPHONE	DWG. NO.: CATV1
DATE: APRIL 20, 1990		PAGE NO:

DISTRIBUTION ENGINEERING MANUAL
CLAY ELECTRIC COOPERATIVE, INC.

XDAULVC4



Latest Revision: 12/29/2008 (FH)

Lowered CEC neutral 1'-0" to meet current CEC specifications.

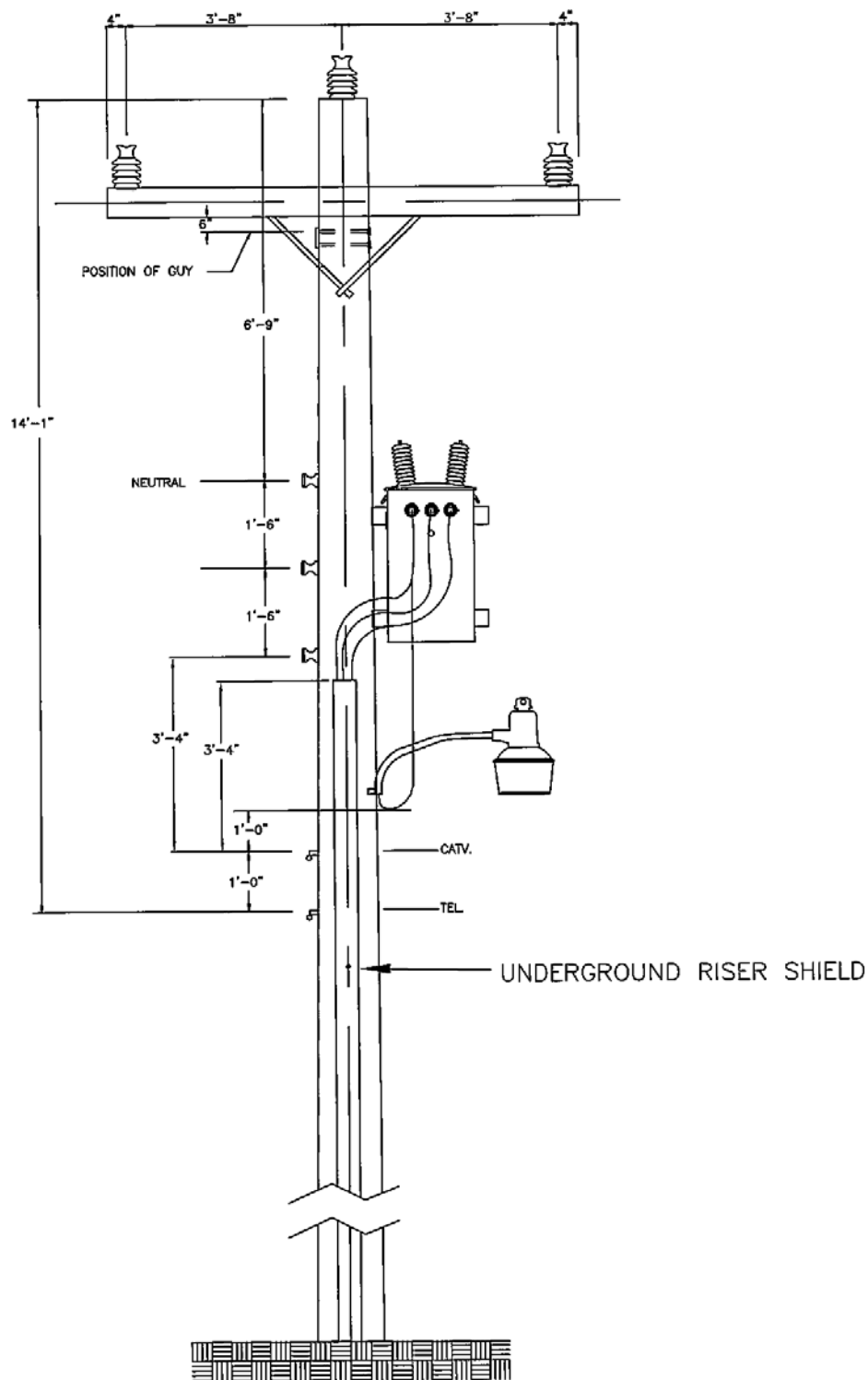
PREPARED BY: H. DYAL
DATE: APRIL 20, 1990

SUBJECT: UTILITY LOCATION
VC4-1

DWG. NO.: CATV2
PAGE NO:

DISTRIBUTION ENGINEERING MANUAL
CLAY ELECTRIC COOPERATIVE, INC.

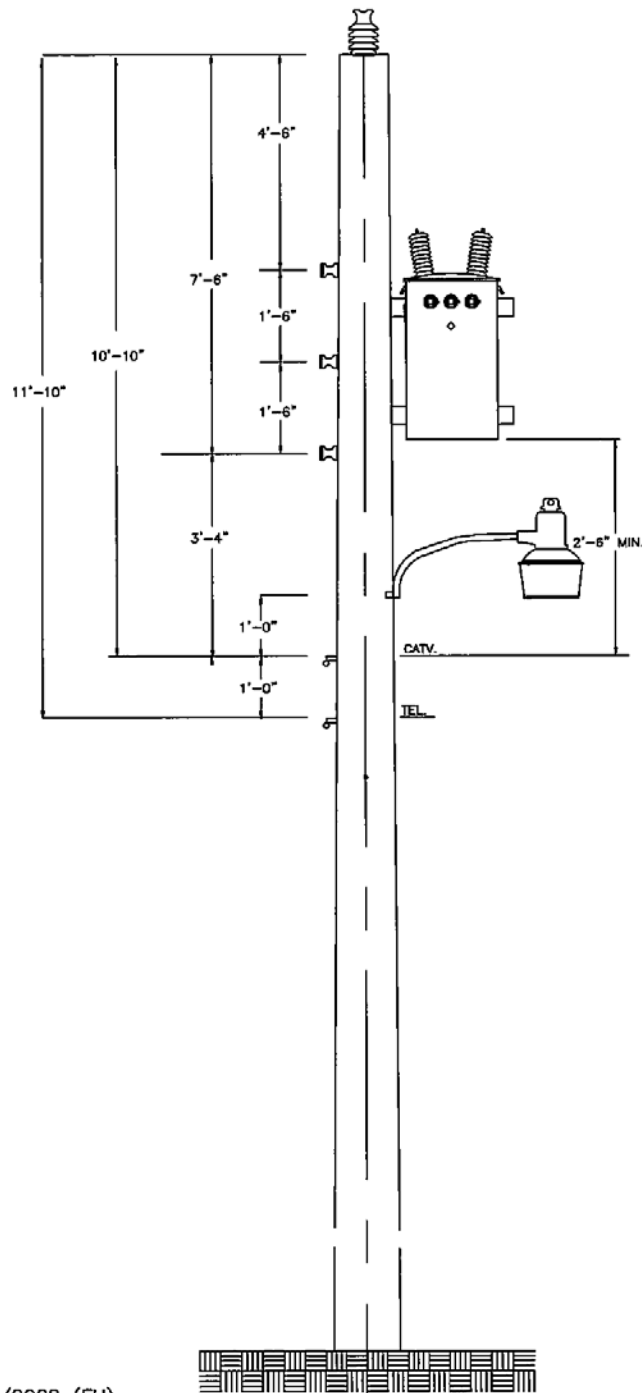
XDAULVC



Last Revision: 12/29/2008 (FH) Modified spacings as result of CEC neutral being lowered.

PREPARED BY: H. DYAL	SUBJECT: UTILITY LOCATION VC-1	DWG.NO.: CATV3
DATE: APRIL 20, 1990		PAGE NO:

DISTRIBUTION ENGINEERING MANUAL
CLAY ELECTRIC COOPERATIVE, INC.



Last Revision: 12/16/2008 (FH)
 Increased neutral to pole top to 4'-6" from 3'-6".

PREPARED BY: H. DYAL

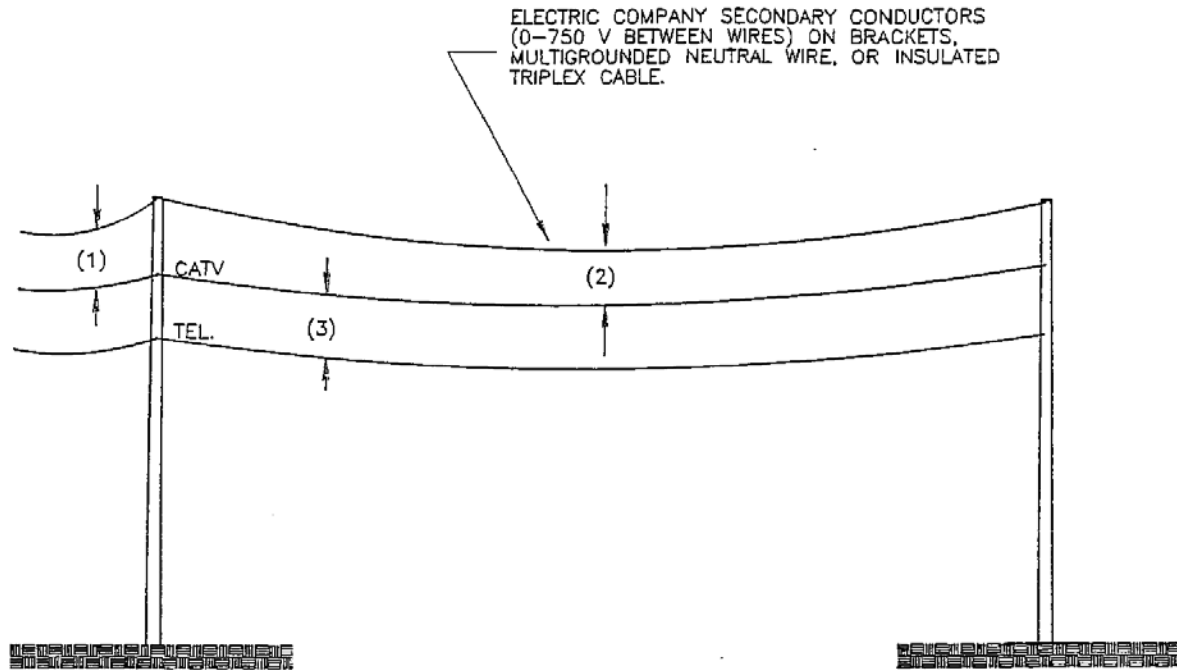
SUBJECT: UTILITY LOCATION
 VA-1

DWG.NO.: CATV4

DATE: APRIL 20, 1990

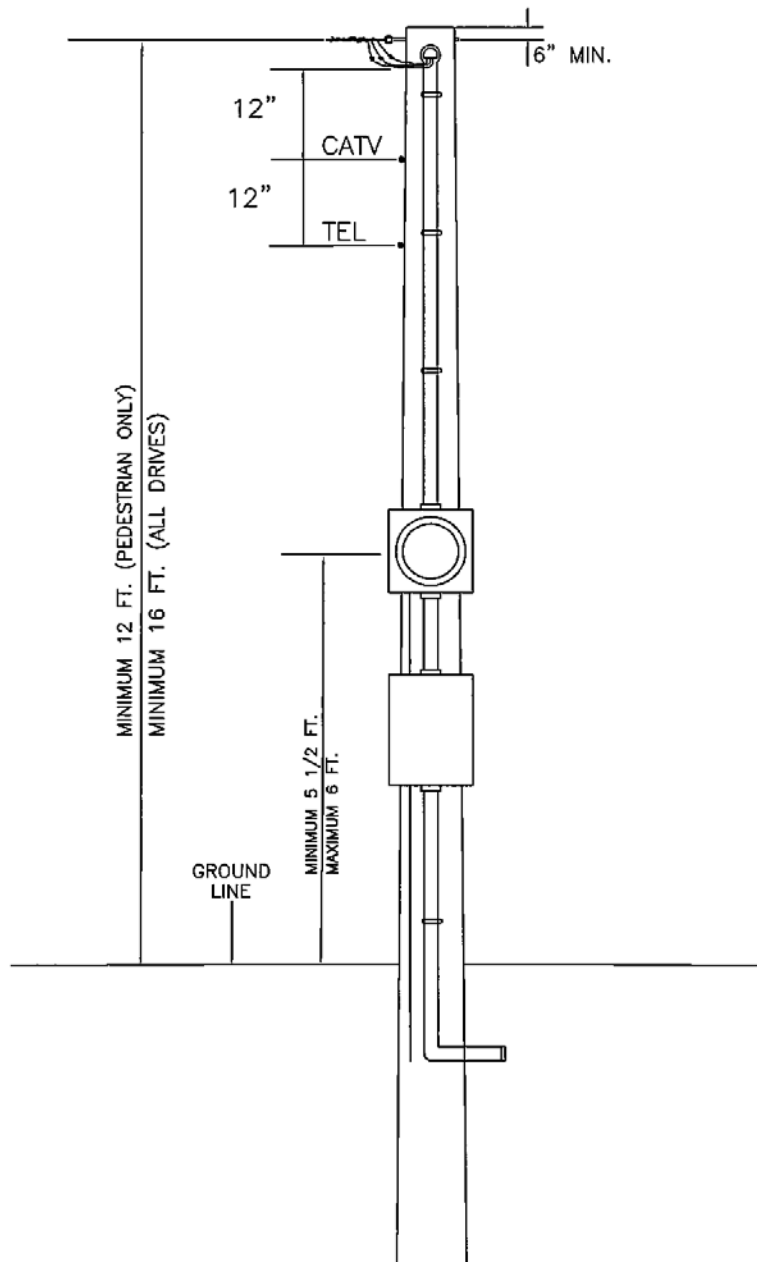
PAGE NO:

DISTRIBUTION ENGINEERING MANUAL
 CLAY ELECTRIC COOPERATIVE, INC.



- (1) 40 INCH MINIMUM CLEARANCE AT SUPPORT
- (2) 30 INCH MINIMUM MID-SPAN CLEARANCE
- (3) 12 INCH MINIMUM AT SUPPORT AND MID-SPAN

PREPARED BY:	H. DYAL	SUBJECT:	UTILITY LOCATIONS SECONDARY POLES	DWG. NO.:	CATV5
DATE:	APRIL 20, 1990			PAGE NO.:	
DISTRIBUTION ENGINEERING MANUAL CLAY ELECTRIC COOPERATIVE, INC.					



NOTES:

1. POLE SHALL BE APPROVED PRESSURE TREATED WITH A MINIMUM TOP CIRCUMFERENCE OF 15" AND A MINIMUM LENGTH OF 18' OR AS REQUIRED TO OBTAIN GROUND CLEARANCE

Last Revision: 12/29/2008 (FH) Revised clearance over drives to comply with latest version of NESC.

PREPARED BY:	H. DYAL	SUBJECT:	UTILITY LOCATIONS SERVICE POLE	DWG.NO.:	CATV6
DATE:	APRIL 20, 1990			PAGE NO.:	
DISTRIBUTION ENGINEERING MANUAL CLAY ELECTRIC COOPERATIVE, INC.					



AGENDA MEMORANDUM

Item No: 4.C.4.

Meeting Date: December 7, 2015

From: Tracey Dean, Airport Manager

Subject: Resolution authorizing execution of a long term lease Agreement with DRJ Land, LLC (Jenkins Auto Group) for vacant property located along the west side of the airport runway protection zone (RPZ)

Staff Recommendation:

Staff recommends approval of the lease Agreement with DRJ Land, LLC.

Analysis:

The City and DRJ Land, LLC, a.k.a. Jenkins Auto Group wish to enter into a lease agreement for land located to the west of the Airport Runway Protection Zone (RPZ), approximately 5 acres in size. The parcel is designated for non-aeronautical use, as identified on both the Airport Layout Plan, and the Land Use Drawing. Jenkins Auto Group plans to clear the property and pave approximately two acres for car display. The property does not have current ingress/egress off US Highway 441; however, it is contiguous to Jenkins Hyundai and they will create access from the northwest side.

Jenkins Auto Group is currently leasing property located at 9020 US Highway 441, on a month to month basis. They are utilizing the outside land only, to park overflow of vehicles. This property is identified on the Airport Layout Plan and Airport Land Use Drawing as aeronautical land. City staff knows that this piece of land is best used for aeronautical use and/or a combination of aeronautical and commercial use due to Highway 441 frontage. Likewise, Jenkins Auto Group wishes to relocate; therefore, a win-win situation.

Also as part of this transaction, Staff negotiated a 3% annual commission for Grizzard real Estate. Staff recommends approval of such commission as real estate brokers were active in this transaction and can assist the airport in future transactions.

Options:

1. Approve the lease agreement with DRJ Silver Lake Holdings, LLC; or
2. Such alternative action as the Commission may deem appropriate

Fiscal Impact:

The initial 15 years of this agreement will generate \$510,023, assuming a 2% CPI, in total lease revenue.

Submission Date and Time: 12/3/2015 1:25 PM

Department: <u>Airport</u> Prepared by: <u>Tracey Dean</u> Attachments: Yes <u>x</u> No <u> </u> Advertised: <u>Not Required</u> <u>x</u> Dates: <u> </u> Attorney Review : Yes <u>x</u> No <u> </u> <u> </u> Revised 6/10/04	Reviewed by: Dept. Head <u> </u> Finance Dept. <u> </u> Deputy C.M. <u> </u> <u>MWR</u> <u>11/30</u> Submitted by: City Manager <u> </u>	Account No. <u>048-0000-362-0110</u> Project No. <u> </u> WF No. <u> </u> Budget <u> </u> Available <u> </u>
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RESOLUTION NO. _____

RESOLUTION OF THE CITY COMMISSION OF THE CITY OF
LEESBURG, FLORIDA AUTHORIZING THE MAYOR AND CITY
CLERK TO EXECUTE A LEASE AGREEMENT WITH DRJ
LAND, LLC, FOR PROPERTY LOCATED WEST OF THE
AIRPORT RUNWAY PROTECTION ZONE; AND PROVIDING
AN EFFECTIVE DATE.

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LEESBURG,
FLORIDA:**

THAT the Mayor and City Clerk are hereby authorized to execute an agreement
with DRJ Land, LLC for property located west of the Airport Runway Protection Zone.

THAT this resolution shall become effective immediately.

PASSED AND ADOPTED by the City Commission of the City of Leesburg, Florida, at a
regular meeting held the 7th day of December 2015.

ELISE A. DENNISON, Mayor

ATTEST:

J. ANDI PURVIS, City Clerk

GROUND LEASE AGREEMENT

THIS INSTRUMENT, made and entered into the _____ day of _____, 2015, by and between the **CITY OF LEESBURG**, a Florida Municipal corporation, hereinafter called the Lessor, and **DRJ LAND COMPANY, LLC**, hereinafter called the Lessee,

WITNESSETH:

Lessor owns the Leesburg International Airport. Lessee desires to rent space on land owned by Lessor near the Airport for the purposes expressed below, and Lessor has consented to lease space to Lessee under the terms and conditions of this document.

NOW THEREFORE, for and in consideration of the mutual covenants and promises contained herein, the parties agree as follows:

1. **PROPERTY AND TERM.** The property which shall be subject to this Lease is specifically described and depicted on Exhibit "A" attached hereto. The term of this Lease shall commence January 1, 2016, and unless earlier terminated as provided below, will end at midnight on the last day of December, 2030. However, Lessee may terminate this Lease any time after January 1, 2021, by giving written notice to Lessor, which is actually received by Lessor not less than one year prior to Lessee's desired termination date.

If Lessee remains in possession following the termination date of this Lease, it shall not constitute or imply a renewal of the term of this Lease, instead Lessee shall be deemed a holdover tenant on a month to month basis, subject to all terms, conditions and covenants of this Lease other than those specifying the length of the term, and those regarding the amount of rent which may be adjusted by Lessor at any time after the termination date of this Lease.

2. **RENT.** Rent during the term shall be paid monthly in advance, beginning as of the date the term commences. Rent shall be computed in the following manner:

- a. For the first three years of the term (2016, 2017 and 2018), at \$0.15 per square foot of land as shown on Exhibit "A," plus applicable sales tax.

- b. On January 1 in the fourth year (2019) and on January 1 of each third year thereafter (2022, 2025, and 2028), rent shall increase by the greater of 2%, or an amount determined by multiplying the annual rent charged during the immediately preceding year of the lease term by the percentage increase in the Consumer Price Index (all Urban Consumers, U.S. City Average, 1982-84=100) published by the United States Department of Labor, over the entire immediately preceding three lease years (January 1 through December 31), provided however that no single CPI adjustment shall exceed 5%. There shall be no downward adjustments in rent. If the Consumer Price Index is discontinued, then rental adjustments shall be computed by a comparable or replacement index measuring annual increases in the cost of living. There shall be no downward adjustment using the replacement index.

Each installment of Rent is payable in advance, on the first (1st) day of each calendar month, and shall be paid at City Hall, Post Office Box 490630, Leesburg, Florida 34749-0630, or in such other manner as Lessor may, from time to time, direct by written notice to Lessee.

Time is of the essence of this contract, and in particular Lessee acknowledges and agrees that it is responsible for paying the Rent promptly on the first (1st) day of each month, and that failure to do so within 10 days of the due date will constitute a default under this lease and entitle Lessor, after first giving three days written notice of default to Lessee, to pursue any remedy allowed by law or under this lease for a default. If at any time a check given by Lessee to Lessor is returned unpaid, thereafter Lessor may require all future payments under this lease to be made in cash or by cashier's check.

Any installment of Rent or any other charge accruing under the provisions of this Lease that is not paid when due shall bear interest at the rate of 1.0% per month (12% per annum) from the date when the same was payable by the terms hereof, until the same is paid by Lessee.

3. USE. Lessee shall use the premises for the parking, storage and sales of Lessee's inventory of new and used vehicles offered for sale at its automobile dealerships on U.S. Highway 441 near the leased premises. No other use shall be made of the premises without the prior, written permission of the Lessor. There shall be no vehicle maintenance, no refueling, and no introduction of oil, gasoline, diesel fuel or other lubricants or fuels into vehicles while stored on the site, and the premises shall not be used to store vehicles of customers which are in the possession of Lessee for service. Lessee shall make no unlawful or offensive use of the premises, nor shall any activity be carried on at the premises which constitutes a nuisance to surrounding property. To minimize to the greatest extent possible the potential for injury to its customers, Lessee shall take all commercially reasonable steps possible to assure that none of its customers are on the premises unless accompanied by an employee of Lessee.

Except as provided below Lessee shall not allow the production, use, handling or storage, of dangerous or toxic chemicals or substances (other than fuel and lubricants commonly utilized in motor vehicles, while stored within the vehicles themselves), machines or equipment causing excessive noise or dust particles or anything else of any nature whatsoever which would be injurious to the building or property in the reasonable opinion of Lessor. Lessee shall indemnify Lessor against all claims for damages or other relief, plus attorney's fees and costs, due to any production, use, handling, storage, discharge or disposal of any hazardous or toxic wastes or substances by Lessee whatsoever, whether or not permitted hereunder, as such may be defined from time to time by any local, State or Federal agency, whether at the premises or elsewhere. Lessee shall be responsible for the acts and behavior of its officers and employees, customers and potential customers, licensees, invitees, agents, clients, and anyone else on the premises whether with or without the knowledge and consent of Lessee.

4. INGRESS AND EGRESS. Ingress and egress shall be from U.S. Highway 441 or College Drive, and will require approval from other agencies, including but not limited to the Florida Department of Transportation and Lake County, Florida. Ingress and egress shall be allowed only at the locations approved by Lessor, Lake County, and FDOT, and Lessee shall at its expense construct any curb cuts,

aprons, acceleration or deceleration lanes, traffic signals, and other improvements required by Lessor, Lake County, or FDOT, and Lessee shall restore those areas disturbed by such improvements to their original condition once Lessee relinquishes possession or Lessee's right to possession is terminated by law.

5. UTILITIES. All utilities serving the premises, including but not limited to electricity, water, refuse and garbage service, sewage disposal and pollution abatement charges, telephone and other telecommunications, data or internet connections, impact fees (of any type or purpose, including but not limited to water and sewer, roadways, police and fire protection, public schools, parks and recreation or otherwise) and janitorial service shall be secured and paid for by Lessee, who shall hold Lessor harmless from any loss or damage, including attorney's fees, arising out of failure by Lessee to pay all utility charges when due. No utilities, lighting or other utility related improvements, whether above or below ground, shall be installed without the prior, written consent of Lessor.

6. TAXES. Lessee shall pay all sales taxes due on the rent under this lease, and all personal property taxes assessed against Lessee's property kept at the premises, together with any ad valorem or intangible personal property taxes assessed against the real property or against Lessee's leasehold interest. Lessor is a tax exempt entity, therefor if any taxes or assessments are levied against Lessor by reason of this Lease or Lessee's occupancy of the premises, Lessee shall pay all such taxes when due. In particular, Lessee is advised that real property taxes will be imposed against Lessor. Lessee shall be fully responsible for payment of all real property taxes assessed against Lessor for so long as this Lease remains in effect, and upon presentation by Lessor of a tax estimate from the Lake County Property Appraiser, Lessee shall remit the full estimated tax amount to Lessor within no more than 30 days, to be held for payment of taxes. If the actual taxes exceed the estimated amount, Lessee shall upon presentation of the actual tax bill remit to Lessor the difference upon demand.

7. INSURANCE. Lessor shall insure the property against damage by fire and other casualties, however **such insurance shall protect Lessor's interests only**. Lessee is responsible for insuring its own personal property on the premises. Also, Lessee shall at its expense procure, and maintain in force

throughout the term: (i) personal injury and public liability insurance in the amount of \$2,000,000.00 as a single limits policy including death, personal injury, and property damage coverage, showing Lessor as a named insured, with a waiver of subrogation in favor of Lessor, which shall insure against not only any covered incidents occurring on the premises but also against any death, injury to persons or damage to property occurring as persons are entering or leaving the premises; (ii) workers compensation insurance covering any death or personal injury suffered by employees of Lessee while on the premises; and (iii) insurance covering the cost to remediate any petroleum or other contamination of the premises by any act or omission of Lessee. Proof of such insurance shall be provided to Lessor no later than the commencement of the term and annually thereafter for the balance of the term and any extensions. All such insurance shall be maintained with insurers licensed to operate in Florida, accorded a rating of "A" or better by A.M. Best.

8. MAINTENANCE. Lessee shall maintain the premises in such condition that the property does not become an eyesore and is in compliance with applicable codes and compatible with the conditions existing elsewhere on the airport. The property shall be returned to Lessor in good condition at the end of the term of this Lease, and shall if necessary to restore the premises to the same condition as at the inception of this Lease, grade, sod and/or seed the property so that any damage which could result in erosion due to dead or dying vegetation resulting from Lessee's use is abated. Lessee shall also, at its sole expense, clean up immediately upon discovery any spill or leakage of oil, gasoline, diesel fuel or other petroleum products, lubricants or fluids (such as but not limited to coolant and brake fluid) discharged from vehicles brought or stored on site by or on behalf of Lessee. If Lessee fails to carry out its maintenance responsibilities properly, Lessor may give written notice of deficiencies to Lessee, specifying a time within which corrections are to be made, and if Lessee fails to act within the time specified, Lessor may make take all steps it deems necessary to remedy the problems cited and charge the cost thereof to Lessee as additional rent hereunder, to be payable immediately upon demand.

9. FIRE EQUIPMENT. Lessee shall provide and maintain, at Lessee's sole expense, approved fire protection devices adequate for the leased premises in accordance with any State of Florida and City of Leesburg fire safety codes and requirements.

10. ENTRY AND INSPECTION. At any reasonable time, Lessor may enter the leased premises personally or through a designated agent and conduct an inspection to determine if Lessee is complying with the terms of this lease. If such inspection reveals deficiencies, Lessor may, but shall not be obligated to, make such repairs, or take any other action, as may be necessary to bring Lessee into compliance, and recover the costs thereof either from the deposit, or from Lessee, in which case the costs shall be considered additional rent due immediately from Lessee; failure by Lessee to pay these sums shall be grounds for termination of this lease.

11. ADDITIONAL RENT. All taxes, costs, charges, and expenses which Lessee is required by this Lease to pay, together with all interest and penalties thereon which may accrue in the event Lessee fails to pay such amounts, and all damages, costs and expenses (including attorney's fees) which Lessor may incur by reason of any failure by Lessee to comply with the terms of this Lease, shall be deemed to be additional rent, and in the event of nonpayment thereof by Lessee, the Lessor shall have the same rights and remedies with respect thereto as Lessor may have, at law, in equity, or under this lease, for nonpayment of the rent itself.

12. ALTERATIONS AND IMPROVEMENTS. No alterations or improvements to the premises shall be made by Lessee, nor shall any signs be erected, unless Lessor has reviewed the plans and specifications and given its written consent before commencement of any such work. Lessor may require Lessee to remove any unauthorized signs, alterations, or improvements, and to return the premises to their original condition, and if Lessee fails or refuses to do so then Lessor may have the necessary work done and assess the cost against Lessee, to be paid immediately upon demand. All work must conform to applicable codes and be performed by licensed and bonded contractors, and all required building permits, as well as statutory performance and payment bonds, shall be secured. At the end of the term or upon any

earlier termination of this lease, all alterations and improvements on the premises shall become the property of Lessor and shall not be removed by Lessee, unless prior to termination or within 5 days thereafter Lessor directs removal of any such improvements, in which case lessee shall at its expense remove those improvements specified within 15 days after termination and return the premises to their original condition. Approval of any signs or improvements by Lessor under this Lease shall not constitute a waiver of Lessor's rights and obligations as the local government with regulatory jurisdiction over the premises, and Lessee is placed on express notice that it must obtain not only Lessor's approval under this Lease but also all permits, inspections and approvals required under Lessor's code of ordinances and applicable state law, and Lessor shall not be estopped by issuance of approval under this Lease from imposing any requirements and conditions it deems appropriate under its regulatory authority.

13. LIENS. The Lessee shall not have the power or authority to subject the Lessor's interest in the premises to mechanics', laborers' or materialmen's liens of any kind against Lessor's interest during this Lease. If such a lien is filed, Lessee shall cause the premises to be released therefrom within five (5) days of written demand by Lessor, either by payment in full, or by posting of bond which by law releases Lessor's interest from the legal effect of such lien. Prior to commencing work, Lessee shall obtain from any contractor, subcontractor, laborer or materialmen performing work or providing materials for the premises, a waiver of lien whereby such person specifies that he or she will not impose any lien or claim against the real property by reason of the work done or materials provided. Any such work shall be done only under written contract and Lessor shall have the opportunity to approve such contract before work commences.

14. REPRESENTATIONS OF LESSOR. In order to induce Lessee to enter into this lease, the Lessor has made the following representations and no others:

A. Lessor has good title to the premises, and the right to enter into this Lease without the joinder or consent of any other person or entity;

B. So long as Lessee performs all the covenants and agreements of this lease, Lessee shall have quiet and undisturbed possession of the premises;

C. Lessee is advised that FAA regulations may restrict the height and size of any structure placed on the premises by Lessee, and may otherwise restrict the use of the premises. Lessee will be responsible for ascertaining the nature and extent of, and complying with, all FAA requirements and restrictions pertaining to use of the premises

D. Lessee is further advised that Lake Sumter State College has a perpetual easement on a portion of the premises for its sign on the Northwest corner of the intersection of U.S. 441 and College Drive.

15. REPRESENTATIONS OF LESSEE. In order to induce Lessor to enter into this Lease, the Lessee has made the following representations, and no others:

A. Lessee has inspected the premises and found them to be fit for its intended purposes, and accepts the premises in as – is, where – is condition based solely on its own inspection and not on any representation or statement made by or on behalf of Lessor.

B. Lessee has assured itself that the zoning of the premises will permit the intended use, and will not violate any zoning or land use rules during occupancy, and will obtain and keep in force all licenses and permits required for the operation of Lessee's business at the premises. Lessee is placed on express notice that Lessor has not, by entering into this Lease, waived any rights or obligations it has as the local government with regulatory jurisdiction over the premises to enforce all zoning, building, land use and other codes and ordinances pertaining to the premises.

C. Lessee is acting solely on its own behalf, and not on behalf of any third party or undisclosed principal whomsoever.

D. Lessee will perform and abide by each and every term, covenant and agreement of this lease.

E. **EXCEPT FOR THE ITEMS SET FORTH SPECIFICALLY IN THIS LEASE, ALL WARRANTIES OF ANY NATURE CONCERNING THE PREMISES, EITHER ORAL OR WRITTEN, EXPRESSED OR IMPLIED, ARE WAIVED BY LESSEE. LESSEE UNDERSTANDS AND AGREES THAT LESSOR DOES NOT WARRANT THE CONDITION OF ANY IMPROVEMENTS ON THE PROPERTY, THEIR HABITABILITY OR THEIR FITNESS FOR ANY PARTICULAR PURPOSE, AND THAT ALL SUCH WARRANTIES, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED, ARE HEREBY WAIVED BY LESSEE AND DISCLAIMED BY LESSOR.**

F. If Lessee is not a natural person, then Lessee warrants that it is duly formed and validly existing under state law and local ordinances, and that all things required by law or by Lessee's governing documents, necessary to the execution of this lease have been accomplished, that the person signing this lease is authorized to bind Lessee, and that Lessee will maintain its lawful existence at all times during the term of this Lease and any extensions.

16. **INDEMNITY.** Lessee will indemnify Lessor, and hold Lessor harmless, from and against all claims, debts, demands, or obligations which may be made by anyone whomsoever against Lessor, or Lessor's interest in the premises, arising out of or in any way connected with Lessee's use and occupation of the premises, including without limiting the generality of the foregoing those matters which are caused in whole or in part by the negligence of Lessor, its agents, servants or employees. If it becomes necessary for Lessor to defend any action against it, seeking to impose such liability, Lessee will pay not only any judgment entered against Lessor in such proceeding, but also all costs and attorney's fees incurred by Lessor in its defense of the proceeding.

17. **DAMAGE BY LESSEE OR BY FIRE AND CASUALTY.** In the event the premises are damaged by fire or other casualty, not caused by the negligent or deliberate acts of Lessee, its agents, servants, employees or guests, Lessor may elect to repair the damage within a reasonable time, and the rent due hereunder shall abate until repairs are completed, by the proportion by which the damage prevents

Lessee's use of the premises, or in the alternative Lessor may at its sole option elect to terminate this Lease. If Lessor elects to terminate this Lease rather than repair the premises, any insurance proceeds payable due to a fire or other casualty shall be the sole property of Lessor.

If the premises are damaged by the intentional or negligent acts or omissions of Lessee or any of its agents, servants, employees or guests, Lessee shall be obligated to restore the premises within a reasonable time at its expense, and if it fails to do so, then Lessor may repair such damage and restore the premises to their original condition without notice to or consent by Lessee, and recover the entire cost of the repair from Lessee immediately, together with any lost rent and other consequential damages suffered by Lessor as a result of the intentional or negligent acts of the Lessee, its agents, servants, employees or guests.

18. BANKRUPTCY. This lease shall be terminated immediately, without notice to Lessee, in the event Lessee or any surety of Lessee on this lease become bankrupt, or files any proceedings as debtor, or takes or has taken against it any action or proceeding in bankruptcy or insolvency, or for reorganization or appointment of a trustee of all or a portion of Lessee's or the surety's property; or if Lessee or any surety makes an assignment for the benefit of creditors.

19. NO WAIVER. No failure by Lessor to exercise any remedy available to it in the event of a breach of this lease by Lessee shall be deemed a waiver of any subsequent breach, whether of the same or a different provision of this lease, nor shall it be considered a justification of any subsequent breach by Lessee. Acceptance of rent by Lessor at any time when Lessee is in default shall not be construed as a waiver of such default, or of Lessor's right to terminate this lease on account of such default at any time the default remains outstanding, nor shall any waiver or indulgence granted by Lessor to Lessee be taken as an estoppel against Lessor, it being expressly understood that if Lessee is in default and Lessor accepts rent during the continuance of such default or fails promptly to avail itself of its remedies for such default, this shall not constitute a waiver of such default, but Lessor may at any time, if such default continues, terminate this lease on account thereof.

20. DEFAULT. In the event of a default by Lessee, other than a failure to pay rent or additional rent, which default continues longer than five (5) days after the giving of written notice to Lessee by Lessor demanding that the default be cured, Lessor may terminate this lease and resume possession of the premises immediately, and recover from Lessee liquidated damages as specified below, or at its option Lessor may take such action and expend such sums as may be necessary to cure the default, and recover the cost to cure from the deposit or charge it to Lessee as additional rent.

Should Lessee fail to pay any rent or additional rent hereunder, and if such rent is not paid along with any interest, penalties and late charges, within 3 days after written notice given by Lessor to Lessee, then Lessor may retake possession of the premises immediately, and recover from Lessee the present value of the rent to have been paid by Lessee over the remainder of the term, computed using a discount rate of 6%, or at its option Lessor may elect to sue for each installment of rent as it falls due. In the event Lessor elects to recover the present value of future rents, the rent for the remainder of the term shall be considered accelerated and due immediately upon notice being given to Lessee. Once Lessor has retaken possession (or if Lessee refuses to surrender possession, once Lessor has given Lessee written notice of termination) this lease shall be terminated and Lessee shall have no right to reinstate this lease, whether by payment of the arrearages or otherwise.

Upon termination of this lease, Lessee shall surrender the premises peaceably to Lessor immediately, and if Lessee fails to do so it shall be deemed guilty of unlawful detainer of the premises and be subject to remedies provided for that violation. This lease shall be considered terminated immediately upon the giving to Lessee by Lessor of written notice of termination. Liquidated damages of \$75.00 per day shall be paid by Lessee for each day or portion thereof that Lessee fails to surrender possession of the premises to Lessor in accordance with this lease, after termination or expiration hereof.

In any event, in addition to recovery of possession and liquidated damages, Lessor shall also recover all additional rent, special damages, costs and attorney's fees incurred by it as a result of the default by Lessee. Lessee agrees that it would be impossible to compute the general damages suffered by Lessor

should Lessee default, that it is therefore proper to provide for liquidated damages, and that the amount of liquidated damages set forth herein is reasonable and does not constitute a penalty or forfeiture.

21. REMEDIES CUMULATIVE. Lessor's remedies under this lease are cumulative, and no one remedy shall be exclusive, in law or equity, of any other rights which Lessor may have, and the exercise of one right or remedy shall not impair Lessor's standing to exercise any other right or remedy.

22. ARREARAGES. Any amount of money to be paid to Lessor by Lessee under this lease, which is not paid within 10 days of the date when it first falls due, shall bear interest at the highest rate allowed by law until paid in full. Lessor, at its sole option, may elect to apply any payment by Lessee either to amounts most recently due, to amounts farthest in arrears, or to interest due on the arrearages.

23. ASSIGNMENT. This lease may not be assigned by Lessee, nor may Lessee sublet the premises either in whole or in part, or pledge Lessee's leasehold interest as collateral for any debt or obligation of Lessee, without prior written permission from Lessor, which may not be withheld unreasonably so long as no default exists hereunder, provided that no change in use is made and the assignment will not violate any other agreements by Lessor. Lessor shall not be required to consent to any sublease or assignment whatsoever as long as any default by Lessee remains in existence.

If this lease is assigned to any person or entity pursuant to the provision of Title 11, U.S.C. (the Bankruptcy Code), any and all consideration payable or otherwise to be delivered in connection with any such assignment shall be paid and delivered to Lessor, to be and remain the exclusive property of Lessor and shall not constitute property of the Lessee or of the estate of Lessee within the meaning of the Bankruptcy Code. Any such consideration not paid or delivered to Lessor as provided above shall be held in trust by the recipient for the benefit of Lessor and shall be promptly paid and delivered to Lessor. Any assignee under the Bankruptcy Code shall be deemed, by having received such assignment and without further act or deed, to have assumed all of the obligations of Lessee arising under this lease, from and after the date of such assignment. Upon demand by Lessor, any such assignee shall execute and deliver to Lessor an instrument confirming such assumption.

If Lessee or any assignee or sublessee is not a natural person, the following shall be deemed to be assignments requiring the written consent of Lessor as a condition to continued occupancy of the premises hereunder:

- a. Sale of more than 49% of the shares of a corporate Lessee which are issued and outstanding on the commencement date of this lease;
- b. Issuance by a corporate lessee of additional shares which results in the shares issued and outstanding on the commencement date of this lease being reduced, after the new issue, to less than 51% of the then outstanding and issued shares;
- c. Any other action by a corporate lessee, or its shareholders, the result of which is to reduce the percentage of shares owned by those shareholders existing as of the date of this lease to less than 51%;
- d. Any change in the partners of a lessee which is a general partnership;
- e. Any change in general partners of a limited partnership lessee or any reduction in the percentage of ownership in the partnership by any general partner, any change in the membership or control of a limited liability company which is a lessee hereunder, or any other change in the ownership of a Lessee which is not a natural person, the effect of which is to reduce the percentage of ownership of the equity owners as of the date of this Lease to less than 51% of the total, outstanding equity ownership of the entity.

24. MEMORANDUM. Lessor may, at its option, record a memorandum of this lease in the Public Records of Lake County, Florida, so as to alert third parties of the nature and duration of Lessee's interests in the premises.

25. ESTOPPEL CERTIFICATE. At any time, upon request by Lessor, the Lessee agrees to execute a certificate stating:

- A. That no default exists at the time on the part of Lessor, or setting forth the nature of the default if one does exist;
- B. The term, rental amount, termination date and other material conditions of this lease;

C. That Lessee's interest is inferior and subordinate to the lien of any mortgage now encumbering Lessor's interest in the premises, or hereafter executed by Lessor.

26. RELATIONSHIP OF PARTIES. Nothing in this Lease shall be deemed to create a relationship of partnership, principal and agent, or any other relationship between the parties other than landlord and tenant. Lessee agrees that it shall not challenge the fee title of Lessor in the premises or claim any interest superior thereto.

27. COSTS AND FEES. In the event it is necessary for Lessor to employ counsel to enforce the obligations of Lessee hereunder, the Lessee shall reimburse Lessor for reasonable attorney's fees so incurred, whether or not suit is filed; and if a legal action is commenced by either party, then at the conclusion of such action the prevailing party shall be entitled to recover its reasonable costs and attorney's fees, in addition to any other relief granted.

28. GOVERNING LAW. This lease shall be applied and construed in accordance with the Laws of Florida. Venue for any action hereunder shall be in Lake County, Florida. The courts of the State of Florida shall have jurisdiction to hear and decide any and all disputes which arise under this lease.

29. NOTICES. Any notice required by this lease shall be in writing and shall be either delivered in person, or mailed by United States Mail, certified with return receipt requested and all postage charges prepaid. Except where receipt is specifically required in this lease, any notice mailed in accordance with these standards to the proper address as set forth below shall be deemed to be effective upon the date of postmark, and any time period shall begin running as of that date, whether or not the notice is actually received. Notices shall be given in the following manner, or in such other manner as may be directed by either party, in writing, from time to time:

A. To Lessor: at the address given for payment of rent.

B. To Lessee at 2025 SW College Rd, Ocala, FL 34474..

30. CONSTRUCTION. Any word in this lease shall be read as either singular or plural, and as either masculine, feminine or neuter gender as the context may require. Captions are included for

convenience only, and shall not be construed to limit, expand, or otherwise modify the text of this lease in any manner. This Lease shall not be construed more strongly against either party based on which party had the greatest role in its drafting or preparation.

31. NATURE OF AGREEMENT. This lease sets forth the entire agreement of the parties; it takes precedence over all prior representations, negotiations and agreements, whether oral or written, which are deemed to have merged into this lease and to have been extinguished to the extent not set forth specifically herein. The execution of this lease has not been induced by either party by any representations, promises or understandings not expressed herein, and there are no collateral agreements, promises or undertakings whatsoever in any way touching on the subject matter of this lease which are not expressly contained herein. This lease may not be amended in any manner whatsoever, other than by written instrument signed by all parties hereto.

32. BINDING EFFECT. This lease shall be binding on, and inure to the benefit of, not only Lessor and Lessee, but also their respective successors and assigns.

33. CONDEMNATION. In the event all or any portion of the building is taken by eminent domain, or is conveyed under threat of such proceedings, all compensation resulting therefrom shall be the property of Lessor and Lessee hereby assigns to Lessor any interest Lessee may otherwise have in such award. Lessee shall execute any documentation required to achieve this result. In the event of a total taking, this lease shall terminate. In the event of a partial taking, Lessor may elect either to terminate this lease or to repair and restore the remaining portion of the premises at its own expense, and keep this lease in force.

34. SEVERABILITY. If any provision hereof is declared invalid or unenforceable, it shall be severed herefrom and the remainder of the lease shall continue in full force as if executed originally without the invalid portion.

35. RULES AND REGULATIONS.

(a) The Lessor has appointed a manager for the Leesburg International Airport, and the Lessor reserves the right for the said manager or his duly authorized agent to enter the premises during business hours for the purpose of performing inspections considered necessary by the manager, and the Lessee shall promptly correct any conditions which are reasonably considered a hazard to life or to protect property. The Lessee agrees not to have explosives, gasoline or other highly flammable materials in, on or about the premises leased; however, excluding motor vehicle fuel tanks.

(b) The Lessee covenants and agrees to observe and obey all reasonable and lawful rules and regulations which may, from time to time, during the term hereof, be adopted and promulgated by the Lessor for operations at said airport.

(c) The Lessor reserves unto itself, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the real property heretofore described, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used, for navigation of or flight in said airspace for landing on, taking off from or operation on the airport.

(d) The Lessor reserves the right to take whatever action may be necessary or appropriate for the operation, maintenance and improvement of the airport and although consideration shall be made of the interest to the Lessee hereunder, Lessee shall have no vested rights to continued operation of the airport in the manner in which it is now operated, nor to continue to operate without competition.

(e) The Lessee agrees for itself, its successors and assigns, to prevent any use of the heretofore described real property which would interfere with or adversely affect the operation or maintenance of the airport, or otherwise constitute an airport hazard.

(f) The Lessee agrees for itself, its successors and assigns, to restrict the height of structures, objects of natural growth and other obstructions on the heretofore described real property to such a height so as to comply with Federal Aviation Regulations, Part 77 or as amended by F.A.A.

(g) This lease shall be subordinate to the provisions of any existing or future agreement entered into between the City of Leesburg and the United States for the improvement or operation and maintenance of the airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the airport.

(h) This lease and all provisions hereof shall be subject and subordinate to all the terms and conditions of the deed under which the Lessor acquired the property known as Leesburg International Airport from the United States of America, and shall be given only such effect as will not conflict or be inconsistent with such terms and conditions.

36. NON-EXCLUSIVE RIGHT PROVISION. Nothing herein contained shall be construed as granting, or authorizing the granting of, an exclusive right within the meaning of Section 308 of the Federal Aviation Act.

37. NONDISCRIMINATION PROVISIONS.

(a) The Lessee, for itself, its successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that:

(1) No person on the grounds of race, color or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to, discrimination in the use of said facilities;

(2) That is the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color or national origin, shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination in any aspect of the process of such construction, or the awarding of bids;

(3) That the Lessee shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in

Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended.

(b) In the event of breach of any of the above nondiscrimination covenants, the Lessor shall have the right to terminate the lease and to re-enter and repossess said land and the facilities thereon, and hold the same as if said lease had never been made or issued. The provision shall not be effective until the procedures of Title 49, Code of Federal Regulations, Part 21, are followed and completed, including exercise or expiration of appeal of rights.

(c) Lessee shall furnish its accommodations and/or services on a fair, equal and not unjustly discriminatory basis to all users thereof, and it shall charge fair, reasonable and not unjustly discriminatory prices for each unit or service; provided, that the Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar types of price reductions to volume purchasers.

(d) Noncompliance with provision (c) above shall constitute a material breach thereof and in the event of such noncompliance the Lessor shall have the right to terminate this lease and the estate hereby created without liability therefor or at the election of the Lessor or the United States, either or both said Governments shall have the right to judicially enforce provision (c) above.

(e) Lessee agrees that it shall insert the above provisions in any lease by which said Lessee grants a right or privilege to any person, firm or corporation to render accommodations and/or services to the public on the premises herein leased.

38. ADA COMPLIANCE. If during the term any alterations or improvements to the premises are required in order to comply with the Americans With Disabilities Act, such improvements shall be the sole responsibility of the Lessee. The Lessee shall observe and comply with all requirements of the ADA in all of its activities at the premises and shall indemnify Lessor and hold Lessor harmless from any loss or damage (including court or administrative costs and attorney's fees) arising out of any violation of ADA by Lessee in the operation of its business or any failure by Lessee to make any improvements required by the ADA in connection with the use and occupancy of the premises by Lessee.

IN WITNESS WHEREOF, the parties have caused their duly authorized officers to execute this Lease on the day and year first above written.

THE CITY OF LEESBURG, FLORIDA

BY: _____
ELISE DENNISON, Mayor

ATTEST: _____
ANDI PURVIS, City Clerk

DATE: _____, 2015

APPROVED AS TO FORM AND CONTENT:

CITY ATTORNEY

WITNESSES (two required):

LESSEE: DRJ LAND COMPANY, LLC



(as to Lessee)

BY: 

DONALD R. JENKINS,
Managing Member



(as to Lessee)

DATE: NOVEMBER 30, 2015

EXHIBIT "A"

Lease Description: AP14004

The South 122 feet of the Southeast Quarter of the Southwest Quarter of Section 15, Township 19 South, Range 25 East of Lake county Florida, Lying West of the Westerly approach clear zone of Runway 3-21 of the Leesburg International Airport as it existed on June 1st, 2014;

AND

The Northeast Quarter of the Northwest Quarter of Section 22, Township 19 South, Range 25 East of Lake County, Florida, Lying West of the Westerly approach clear zone of Runway 3-21 of the Leesburg International Airport, and North of the Northerly right of way of United States Highway 441 as said clear zone and right of way existed on June 1st, 2014.

Said lands containing 217,789.36 square feet or 5.00 acres more or less.

GENERAL NOTES

1: This is NOT A BOUNDARY SURVEY.

2: The Sketch is to show a graphical representation of the Description contained hereon.

3: This sketch was prepared for the City of Leesburg and its assign's as there interests may appear. Use of this sketch by any other parties is Strictly forbidden.

4: Use of this sketch shown on sheet 2 for any other purpose than that stated in note (2) is the sole responsibility of the user. The City of Leesburg assumes no liability for the misuse of this information.

5: All information outside the labeled limits of this site is for general reference purposes only. Assumption of correctness outside of said site boundary is the liability of the user.

6: This sketch was prepared by the City of Leesburg, Public works Department, Engineering Division, under the direction of Adrian Parker, CPM / Development Review Coordinator. for the City of Leesburg

I Tracey Dean, HAVE REQUESTED THE INFORMATION DEPICTED
HERON AND ACKNOWLEDGE RECEIPT OF THE INFORMATION AND IT IS
SATISFACTORY FOR MY NEEDS AS OF THE DATE OF THIS SIGNATURE.

NAME: _____ DATE: _____

Tracey Dean, Airport Manager for the City of Leesburg.

7: This sketch contains 2 sheets in which NONE are valid without all remaining sheets.

SECTION: 22&15-19-25



CITY OF LEESBURG
PUBLIC WORKS DEPT.
ENGINEERING DIVISION
550 S. 14th ST. - P.O. BOX 490630
LEESBURG, FLORIDA 34749
PHONE (352) 728-9755
FAX (352) 728-9879

SKETCH and DESCRIPTION

DRJ Land Company, LLC.

Land Lease from the

CITY OF LEESBURG

DATE: 12/03/2015
DRAWN: ACP
CHECKED: ACP
APPROVED: TD
SCALE: NTS
FILE NO.: AP14004

SHEET
NUMBER
1
OF
2

EXHIBIT "A"

SE 1/4 OF THE SW 1/4 OF
SECTION 15-19-25

±351

122'

±217,789.36 SQ. FT.
±5.0 ACRES

WESTERLY LINE OF CLEAR ZONE

SOUTH LINE OF THE SE 1/4 OF THE SW 1/4
NORTH LINE OF THE NE 1/4 OF THE NW 1/4

NE 1/4 OF THE NW 1/4 OF
SECTION 22-19-25

NORTHERLY RIGHT OF WAY US 441

US. HWY. 441
SR. 500

21/2

SECTION: 22&15-19-25



CITY OF LEESBURG
PUBLIC WORKS DEPT.
ENGINEERING DIVISION
550 S. 14th ST. - P.O. BOX 490630
LEESBURG, FLORIDA 34749
PHONE (352) 728-9755
FAX (352) 728-9879

SKETCH and DESCRIPTION

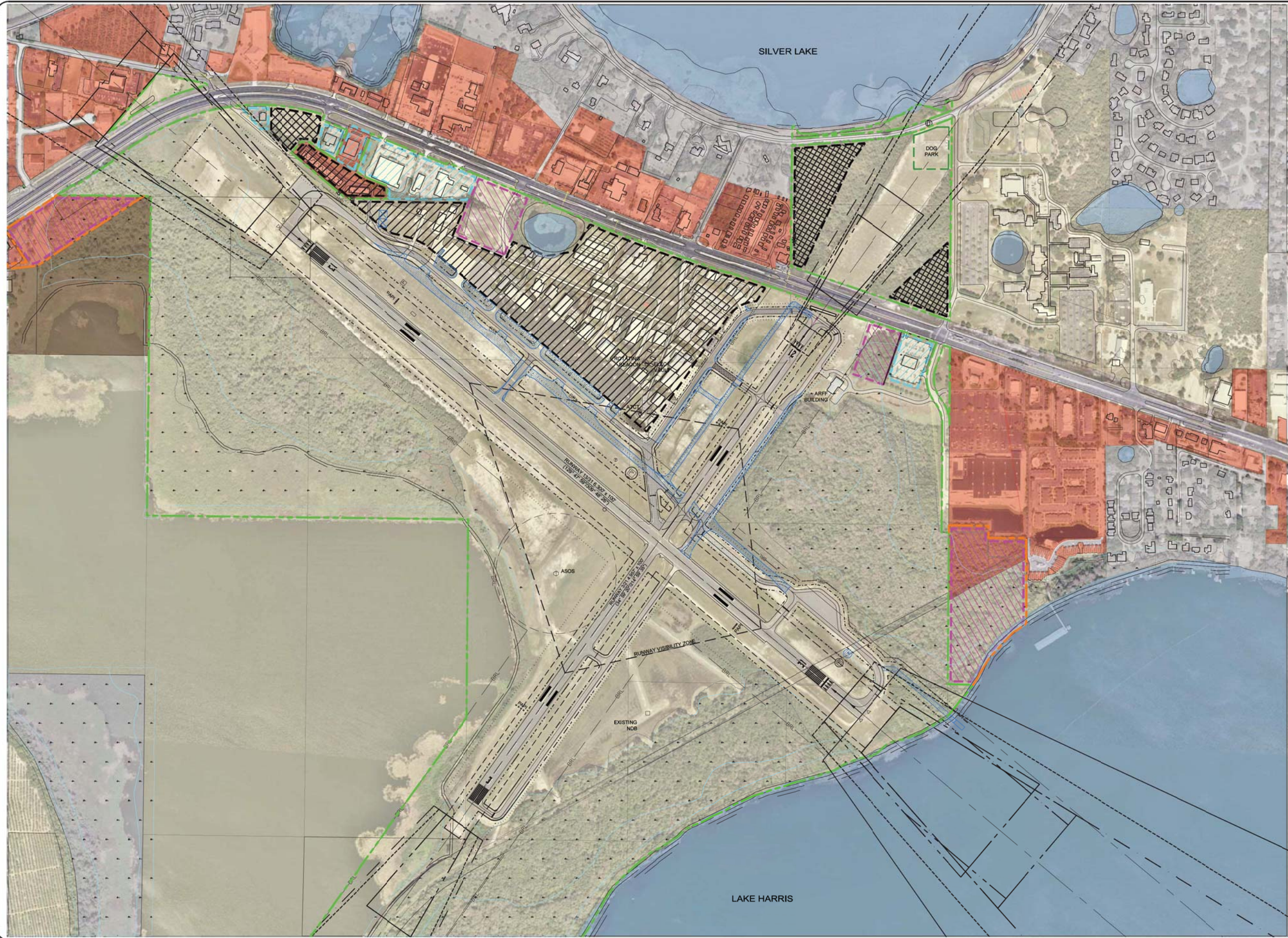
DRJ Land Company, LLC.

Land Lease from the

CITY OF LEESBURG

DATE: 12/03/2015
DRAWN: ACP
CHECKED: ACP
APPROVED: TD
SCALE: 1" = 200'
FILE NO.: AP14004

SHEET
NUMBER
2
OF
2



LAND USE LEGEND

LAND USE DESIGNATION:

- FRESHWATER FORESTED/SHRUB WETLAND
- WATER
- PUBLIC
- RESIDENTIAL
- COMMERCIAL
- INDUSTRIAL
- AGRICULTURE

ON-AIRPORT LAND USE:

- FUTURE ACQUISITION
- EXISTING AERONAUTICAL
- EXISTING NON-AERONAUTICAL
- FUTURE AERONAUTICAL
- FUTURE NON-AERONAUTICAL

MAGNETIC
NORTH
TRUE
NORTH

MAGNETIC DECLINATION: 5° 41' W (5/2013)
ANNUAL RATE OF CHANGE: 5.6" W/ YEAR
EPOCH YEAR 2010

0 200 400 800
SCALE: 1" = 400'

EXISTING	LEGEND	FUTURE
	AIRPORT PROPERTY LINE	
	PAVEMENT	
	BUILDINGS	
	AVIATION EASEMENT	
	AUTOMATED SURFACE OBSERVING SYSTEM (ASOS)	
	4-LIGHT PRECISION APPROACH PATH INDICATOR (PAPI)	
	2-LIGHT PRECISION APPROACH PATH INDICATOR (PAPI)	
	ROTATING BEACON	
	RUNWAY END IDENTIFIER LIGHTS (REIL)	
	LIGHTED WIND CONE AND SEGMENTED CIRCLE/WIND CONE/WIND TEE	
	AIRPORT REFERENCE POINT (ARP)	
	APPROACH SURFACE	
	BUILDING RESTRICTION LINE (BRL) FOR 30' BLDG.	
	PAR PART 77 SURFACE	
	RUNWAY/TAXIWAY OBJECT FREE AREA (ROFA/TOFA)	
	OBSTACLE FREE ZONE (OFZ)	
	RUNWAY PROTECTION ZONE (RPZ)	
	RUNWAY/TAXIWAY SAFETY AREA (RSA/ TSA)	
	40:1 DEPARTURE SURFACE	
	RUNWAY VISIBILITY ZONE	
	PAVEMENT REMOVAL	

APR 05, 2014 2:22 PM HANSON\115_C:\P\WORK\115_001_DELETE\0013502\LEE-ANRUSE.DWG

DATE	REVISION



**LEESBURG INTERNATIONAL AIRPORT
LEESBURG, FLORIDA
INTERIM AIRPORT LAYOUT PLAN UPDATE**

FDOT FM NO.	414440 2 94 01
HANSON PROJECT NO.	12A0179
SCALE	1" = 400'
DATE	APRIL 2014
LAYOUT	JLB 05/02/13
DRAWN	JLB 05/02/13
REVIEWED	TSH 06/2013



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LAND USE DRAWING

EXHIBIT "B"



SECTION: 22&15-19-25



CITY OF LEESBURG
PUBLIC WORKS DEPT.
ENGINEERING DIVISION
550 S. 14th ST. - P.O. BOX 490630
LEESBURG, FLORIDA 34749
PHONE (352) 728-9755
FAX (352) 728-9879

Lease to Silver Lake Dr.
DRJ Land Company, LLC.
Land Lease from the
CITY OF LEESBURG

DATE: 12/03/2015
DRAWN: ACP
CHECKED: ACP
APPROVED: TD
SCALE: 1" = 200'
FILE NO.: AP14004

SHEET
NUMBER
1
OF
1



AGENDA MEMORANDUM

Item No: 4.C.5.

Meeting Date: December 7, 2015

From: DC Maudlin, Director of Public Works

Subject: Resolution to execute an Interlocal Agreement with the FDOT, Lake County, Sumter County, various municipalities and agencies creating the Lake-Sumter Metropolitan Planning Organization

Staff Recommendation:

Staff recommends execution of an interlocal agreement creating the Lake-Sumter Metropolitan Planning Organization and a resolution expressing support for Lake Sumter MPO Resolution 2015-22.

Analysis:

The Lake Sumter MPO was created by interlocal agreement executed in January 2004. The agreement remains in effect until terminated by the parties; however, it must be reviewed and updated every five years. In 2009 the MPO Board reviewed the agreement and determined no changes were necessary.

In February 2010 the MPO approved resolution 2010-5 expanding the membership to include Sumter County municipalities not included in the original agreement. A Redesignation Plan was transmitted to the Governor for approval. The agreement was not amended to reflect the changes at that time.

In October 2015 the MPO Board updated the interlocal agreement creating the Lake Sumter MPO to include the Sumter County municipalities added in 2010 by Resolution 2010-5. The updated interlocal agreement expands membership to include the Cities of Bushnell, Center Hill, Coleman, Webster and Wildwood. In addition the Central Florida Expressway Authority, Florida Central Railroad, Lake County School Board and the Sumter County School Board are added as ex-officio members.

The MPO Board is asking the City to execute the updated agreement and express support for transmittal of the updated agreement to the FDOT and the Governor's Office.

Options:

1. Execute the Interlocal Agreement creating the Lake Sumter MPO or
2. Such alternative action as the Commission may deem appropriate

Fiscal Impact:

Continued membership in the MPO includes an obligation to share in funding the MPO. Leesburg's share of the MPO operating expenses is roughly \$8,000 annually.

Submission Date and Time: 12/3/2015 1:25 PM

Department: Public Works Prepared by: DC Maudlin Attachments: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Advertised: <input type="checkbox"/> Not Required <input type="checkbox"/> Dates: _____ Attorney Review : Yes <input type="checkbox"/> No <input type="checkbox"/> _____ Revised 6/10/04	Reviewed by: Dept. Head DCM Finance Dept. _____ Deputy C.M. _____ Submitted by: City Manager _____	Account No. _____ Project No. _____ WF No. _____ Budget _____ Available _____
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RESOLUTION NO _____

RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LEESBURG, FLORIDA, AUTHORIZING AND DIRECTING THE MAYOR AND CITY CLERK TO EXECUTE A INTERLOCAL AGREEMENT FOR CREATION OF THE LAKE-SUMTER METROPOLITAN PLANNING ORGANIZATION BETWEEN THE CITY OF LEESBURG AND FLORIDA DEPARTMENT OF TRANSPORTATION; LAKE COUNTY, FLORIDA; SUMTER COUNTY, FLORIDA; FLORIDA CENTRAL RAILROAD; CENTRAL FLORIDA EXPRESSWAY AUTHORITY; LAKE COUNTY SCHOOL BOARD; SUMTER COUNTY SCHOOL BOARD; AND THE CITIES OF ASTATULA, BUSHNELL, CENTER HILL, CLERMONT, COLEMAN, EUSTIS, FRUITLAND PARK, GROVELAND, HOWEY IN THE HILLS, LADY LAKE, MASCOTTE, MINNEOLA, MONTVERDE, MOUNT DORA, TAVARES, UMATILLA, WEBSTER, AND WILDWOOD; FOR THE PURPOSE OF REVISING AND RENEWING THE INTERLOCAL AGREEMENT FOR THE FORMATION AND EXISTENCE OF THE METROPOLITAN PLANNING ORGANIZATION; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LEESBURG, FLORIDA:

THAT the Mayor and City Clerk are hereby authorized and directed to execute an interlocal agreement between the City of Leesburg and the parties enumerated above, for the purpose of revising and renewing the interlocal agreement for the formation and existence of the Metropolitan Planning Organization.

THIS RESOLUTION shall take effect upon its passage and adoption according to law.

PASSED AND ADOPTED at the regular meeting of the City Commission of the City of Leesburg, Florida, held on the 7th day of December, 2015.

THE CITY OF LEESBURG, FLORIDA

BY: _____
ELISE DENNISON, Mayor

Attest: _____
ANDI PURVIS, City Clerk



Lake County

Sumter County

Town of Astatula

City of Bushnell

City of Center Hill

City of Clermont

City of Coleman

City of Eustis

City of Fruitland Park

City of Groveland

Town of
Howey-in-the-Hills

Town of Lady Lake

City of Leesburg

City of Mascotte

City of Minneola

Town of Montverde

City of Mount Dora

City of Tavares

City of Umatilla

City of Webster

City of Wildwood

Florida Central
Railroad

Lake County Schools

Sumter County Schools

November 3, 2015

Mr. Al Minner, City Manager
City of Leesburg
PO Box 490630
Leesburg, FL 34749

**RE: Resolution Updating the Interlocal Agreement for the Creation
of the Lake~Sumter MPO**

Dear Mr. Minner:

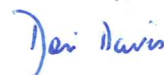
On October 28, 2015, the Lake~Sumter Metropolitan Planning Organization (MPO) Governing Board approved a resolution updating the Interlocal Agreement for the Creation of the Lake~Sumter MPO.

The agreement was first approved in 2004 and was reviewed in 2009. At that time, the MPO by resolution communicated to the FDOT and federal agencies that no changes were needed. In 2010, the MPO approved a Redesignation Plan that added Sumter County in its entirety to the MPO Area. When all of Sumter County was included in the MPO Area as part of the Redesignation Plan, the five municipalities of Sumter County were also added to the MPO Area and to the MPO Bylaws.

Those changes are reflected in the updated interlocal agreement. In addition, the updated agreement also includes the ex-officio members that were not previously included in the interlocal agreement. This includes the Central Florida Expressway Authority, Florida Central Railroad, the Lake County School Board and the Sumter County School Board.

Attached to this letter are the resolution approving the interlocal agreement and the Interlocal Agreement for Creation of the Lake~Sumter Metropolitan Planning Organization. The MPO respectfully requests the City of Leesburg Council take action to approve the updated interlocal agreement. Please advise when this item will be included on the agenda for consideration. Once approved, please return four (4) original signatures pages via mail.

Sincerely,


T.J. Fish
Executive Director

"Promoting Regional Transportation Partnerships"
www.LakeSumterMPO.com

1616 South 14th Street, Leesburg, Florida 34748
Phone (352) 315-0170 – Fax (352) 315-0993

LAKE~SUMTER METROPOLITAN PLANNING ORGANIZATION

RESOLUTION 2015 - 22

A RESOLUTION OF THE LAKE~SUMTER METROPOLITAN PLANNING ORGANIZATION (MPO) FORMALIZING THE RESULTS OF THE REQUIRED EXAMINATION OF THE INTERLOCAL AGREEMENT CREATING THE MPO; FORMALIZING A POSITION ON THE CURRENT MPO APPORTIONMENT AREA; AND AUTHORIZING THE CHAIRMAN TO TRANSMIT SAID RESOLUTION TO THE OFFICE OF THE GOVERNOR AND OTHER AGENCIES

WHEREAS, the Federal Government, under the authority of 23 United States Code 134 and 49 United States Code 5303, requires each metropolitan area, as a condition to the receipt of federal capital or operating assistance, to have a continuing, cooperative, and comprehensive transportation planning process that results in plans and programs consistent with the comprehensively planned development of the metropolitan area, and further requires the State Transportation Agency and the Metropolitan Planning Organization to enter into an Agreement clearly identifying the responsibilities of each party for cooperatively carrying out such transportation planning; and

WHEREAS, an Interlocal Agreement for Creation of the Lake~Sumter Metropolitan Planning Organization was entered on January 31, 2004, by and among the Florida Department of Transportation; the County of Lake and the County of Sumter; the Town of Astatula, City of Clermont, City of Eustis, City of Fruitland Park, City of Groveland, Town of Howey-in-the-Hills, Town of Lady Lake, City of Leesburg, City of Mascotte, City of Minneola, Town of Montverde, City of Mount Dora, City of Tavares and City of Umatilla; and

WHEREAS, the Lake~Sumter Metropolitan Planning Organization (MPO) Governing Board met for the first time February 25, 2004; and

WHEREAS, the Interlocal Agreement provided that the Agreement shall remain in effect until terminated by the parties to this Agreement; provided, however, that by no later than January 30, 2009, and at least every five years thereafter, the Governor shall examine the composition of the MPO membership and reapportion it as necessary to comply with Section 339.175, Florida Statutes, as appropriate. During examination of the MPO apportionment every five years by the Governor, the originating Agreement shall be reviewed by the MPO and the Department to confirm the validity of the contents and to recommend amendments, if any, that are required; and

WHEREAS, the MPO took action by Resolution 2009-1 on January 28, 2009, to confirm the MPO had reviewed the Interlocal Agreement for the Creation of the Lake~Sumter Metropolitan Planning Organization and had determined that no changes were necessary to the agreement; and

WHEREAS, the MPO took action by Resolution 2010-5 on February 24, 2010, to approve and to transmit a Redesignation Plan to the Governor and to applicable agencies that added the remaining portion of Sumter County not previously included at the time of the creation of the MPO to the MPO Area, thus including Sumter County in its entirety; and

WHEREAS, a letter dated October 22, 2010, was received by Governor Crist approving the Redesignation Plan; and

WHEREAS, the MPO has been requested by the FDOT to review and update the Interlocal Agreement for the Creation of the Lake~Sumter Metropolitan Planning Organization; and

WHEREAS, the MPO has examined the Interlocal Agreement for Creation of the Lake~Sumter Metropolitan Planning Organization; and the MPO has reviewed the MPO Apportionment Area that was expanded in 2010 to add all of Sumter County and has prepared formal statements on each to be transmitted to the Office of the Governor.

NOW, THEREFORE, BE IT RESOLVED by the Lake~Sumter Metropolitan Planning Organization that:

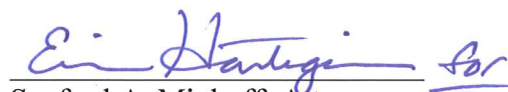
1. The Governing Board of the Lake~Sumter Metropolitan Planning Organization (MPO) has reviewed the Interlocal Agreement for the Creation of the Lake~Sumter MPO and determined that changes are needed to the agreement as a result of the addition of all of Sumter County, including the five municipalities of Sumter County: the City of Bushnell, the City of Center Hill, the City of Coleman, the City of Webster and the City of Wildwood, and due to the addition of ex-officio representation of the Central Florida Expressway Authority, Florida Central Railroad, the Lake County School Board and the Sumter County School Board.
2. The Governing Board of the Lake~Sumter MPO acknowledges the responsibility of the Office of the Governor to review the Apportionment Area of the MPO; and, therefore, formally communicate to the Governor that no changes to the Apportionment Area are necessary at this time in light of the 2010 approval of the Redesignation Plan and that the membership additions are necessary to the Interlocal Agreement at the time of this resolution.
3. The Governing Board of the Lake~Sumter MPO hereby authorizes the chairman to transmit aforementioned actions in the form of this resolution to the Office of the Governor, State of Florida; the Florida Department of Transportation; the Federal Highway Administration; and the Federal Transit Administration.

DULY PASSED AND ADOPTED this 28 day of October, 2015.

Lake~Sumter Metropolitan Planning Organization


Ray Goodgame, Chairman

Approved as to Form and Legality:


Sanford A. Minkoff, Attorney

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
**INTERLOCAL AGREEMENT FOR CREATION OF THE
LAKE~SUMTER
METROPOLITAN PLANNING ORGANIZATION**

THIS INTERLOCAL AGREEMENT for the formation of a Metropolitan Planning Organization is made and entered into on this _____ day of _____, 2015 by and between the FLORIDA DEPARTMENT OF TRANSPORTATION; the COUNTY OF LAKE AND the COUNTY OF SUMTER; the TOWN OF ASTATULA, CITY OF BUSHNELL, CITY OF CENTER HILL, CITY OF CLERMONT, CITY OF COLEMAN, CITY OF EUSTIS, CITY OF FRUITLAND PARK, CITY OF GROVELAND, TOWN OF HOWEY-IN-THE-HILLS, TOWN OF LADY LAKE, CITY OF LEESBURG, CITY OF MASCOTTE, CITY OF MINNEOLA, TOWN OF MONTVERDE, CITY OF MOUNT DORA, CITY OF TAVARES, CITY OF UMATILLA, CITY OF WEBSTER, CITY OF WILDWOOD, FLORIDA CENTRAL RAILROAD, LAKE COUNTY SCHOOL BOARD SUMTER COUNTY SCHOOL BOARD, AND THE CENTRAL FLORIDA EXPRESSWAY AUTHORITY collectively known as “the parties.”

RECITALS

WHEREAS, the federal government, under the authority of Title 23 United States Code (USC) §134 and Title 49 USC §5303, requires each metropolitan area, as a condition for the receipt of federal capital or operating assistance, to have a continuing, cooperative, and comprehensive transportation planning process that results in plans and programs consistent with the comprehensively planned development of the metropolitan area;

WHEREAS, the parties to this Interlocal Agreement desire to participate cooperatively in the performance, on a continuing basis, of a coordinated, comprehensive transportation planning process to assure that highway facilities, mass transit systems, bicycle and pedestrian facilities, rail systems, air transportation and other facilities will be properly located and developed in relation to the overall plan of community development;

WHEREAS, Title 23 USC §134 and Title 49 USC §§5303-5305, as amended by the Moving Ahead for Progress in the 21st Century Act (MAP-21) and Section 339.175, Florida Statutes (F.S.), provide for the creation of Metropolitan Planning Organizations to develop transportation plans and programs for urbanized areas;

WHEREAS, pursuant to Titles 23 USC §134(d), 49 USC §5303, 23 CFR §450.310(b), and Section 339.175(2), F.S., a determination has been made by the Governor and units of general purpose local government representing at least 75 percent of the affected population (including the largest incorporated city, based on population as named by the Bureau of Census) in the urbanized area to designate a Metropolitan Planning Organization;

WHEREAS, pursuant to this Interlocal Agreement, the parties wish to collectively participate in the metropolitan planning process as the Lake~Sumter Metropolitan Planning Organization for Lake and Sumter Counties, which contain the Leesburg-Eustis-Tavares urbanized area; portions of the Lady Lake-The Villages urbanized area; and portions of the Orlando urbanized area, herein after referred to as “the Metropolitan Planning Organization” or “the MPO”. Further, the parties of Lake County, Sumter County and the 14 municipalities of Lake County approved by unanimous vote an apportionment and boundary plan for presentation to the Governor on the 24th day of February, 2010;

WHEREAS, pursuant to Section 339.175(4), F.S., the Governor, by letter dated the 22nd day of October, 2010, approved the apportionment and boundary plan submitted by the MPO;

WHEREAS, pursuant to Title 23 CFR §450.314(a), and Section 339.175(10), F.S., an agreement must be entered into by the Department, the MPO, and the governmental entities and public transportation operators to identify the responsibility of each party for cooperatively carrying out a comprehensive transportation planning process;

WHEREAS, this Interlocal Agreement is required to create the Lake~Sumter Metropolitan Planning Organization and delineate the provisions for operation of the MPO;

WHEREAS, the undersigned parties have determined that this Interlocal Agreement is consistent with Section 339.175(10), F.S.;

WHEREAS, the undersigned parties have determined that this Interlocal Agreement is consistent with statutory requirements set forth in Section 163.01, F.S., relating to Interlocal Agreements; and

NOW, THEREFORE, in consideration of the mutual covenants, promises, and representation herein, the parties desiring to be legally bound, do agree as follows:

ARTICLE 1 RECITALS; DEFINITIONS

Section 1.01. Recitals. Each and all of the foregoing recitals are incorporated herein and acknowledged to be true and correct to the best of the parties' knowledge. Failure of any of the foregoing recitals to be true and correct shall not operate to invalidate this Interlocal Agreement.

Section 1.02. Definitions. The following words when used in this Interlocal Agreement (unless the context shall clearly indicate the contrary) shall have the following meanings:

Interlocal Agreement means and refers to this instrument, as may be amended from time to time.

Department means and refers to the Florida Department of Transportation, an agency of the State of Florida created pursuant to Section 20.23, F.S.

FHWA means and refers to the Federal Highway Administration.

FTA means and refers to the Federal Transit Administration.

Long Range Transportation Plan (LRTP) is the 20-year transportation planning horizon which includes transportation facilities; identifies a financial plan that demonstrates how the plan can be implemented and assesses capital improvements necessary to preserve the existing metropolitan transportation system and make efficient use of existing transportation facilities; indicates proposed transportation activities; and in ozone/carbon monoxide nonattainment areas is coordinated with the State Implementation Plan, all as required by Title 23 USC §134(c), Title 49 USC §5303, Title 23 CFR §450.322, and Section 339.175(7), F.S.

Metropolitan Planning Area means and refers to the planning area determined by agreement between the MPO and the Governor for the urbanized area containing at least a population of 50,000 as described in Title 23 USC §134(b)(1), Title 49 USC §5303, and Section 339.175(2)(c) and (d), F.S., and including the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period, which shall be subject to the Metropolitan Planning Organization's planning authority.

MPO means and refers to the Metropolitan Planning Organization formed pursuant to this Interlocal Agreement as described in 23 USC §134(b)(2), 49 USC §5303, and Section 339.175(1), F.S.

Transportation Improvement Program (TIP) is the staged multi-year program of transportation improvement projects developed by a Metropolitan Planning Organization consistent with the Long Range Transportation Plan, developed pursuant to 23 USC §134(j), 49 USC §5303, 23 CFR §450.324 and Section 339.175(8), F.S.

Unified Planning Work Program (UPWP) is the biennial program developed in cooperation with the Department and public transportation providers, that identifies the planning priorities and activities to be carried out within a metropolitan planning area to be undertaken during a 2-year period, together with a complete description thereof and an estimated budget, all as required by 23 CFR §450.308, and Section 339.175(9), F.S.

ARTICLE 2

PURPOSE

Section 2.01. General Purpose. The purpose of this Interlocal Agreement is to establish the MPO and recognize the boundary and apportionment approved by the Governor. This Interlocal Agreement shall serve:

- (a) To assist in the development of transportation systems embracing various modes of transportation in a manner that will maximize the mobility of people and goods within and through this metropolitan planning area and minimize, to the maximum extent feasible for transportation-related fuel consumption and air pollution;
- (b) To develop transportation plans and programs, in cooperation with the Department, which plans and programs provide for the development of transportation facilities that will function as a multi-modal and intermodal transportation system for the metropolitan planning area;
- (c) To implement and ensure a continuing, cooperative, and comprehensive transportation planning process that results in coordinated plans and programs consistent with the comprehensively planned development of this affected metropolitan planning area in cooperation with the Department;
- (d) To assure eligibility for the receipt of federal capital and operating assistance pursuant to Title 23 USC §134 and Title 49 USC §§5303, 5304, 5305, 5307, 5309, 5310, 5311, 5314, 5326, 5337 and 5339, 5340; and
- (e) To carry out the metropolitan transportation planning process, in cooperation with the Department, as required by federal, state and local laws.

Section 2.02. Major MPO Responsibilities. The MPO is intended to be a forum for cooperative decision making by officials of the governmental entities which are parties to this Interlocal Agreement in the development of transportation-related plans and programs, including but not limited to:

- (a) The LRTP;
- (b) The TIP;
- (c) The UPWP;

- (d) Incorporating performance goals, measures, and targets into the process of identifying and selecting needed transportation improvements and projects;
- (e) A congestion management process for the metropolitan area and coordinated development of all other transportation management systems required by state or federal law;
- (f) Assisting the Department in mapping transportation planning boundaries required by state or federal law;
- (g) Supporting the Department in performing its duties relating to access management, functional classification of roads, and data collection; and
- (h) Performing such other tasks required by state or federal law.

Section 2.03. Coordination with the Department and Consistency with Comprehensive Plans. Chapter 334, F.S., grants broad authority for the Department's role in transportation. Section 334.044, F.S., includes the legislative intent declaring that the Department shall be responsible for coordinating the planning of a safe, viable, and balanced state transportation system serving all regions of the State. Section 339.155, F.S., requires the Department to develop a statewide transportation plan, which considers, to the maximum extent feasible, strategic regional policy plans, MPO plans, and approved local government comprehensive plans. Section 339.175(5), F.S., specifies the authority and responsibility of the MPO and the Department to manage a continuing, cooperative, and comprehensive transportation planning process for the metropolitan area.

In fulfillment of this purpose and in the exercise of the various powers granted by Chapters 334 and 339, F.S., the parties to this Interlocal Agreement acknowledge that decisions made by the MPO will be coordinated with the Department. All parties to this Interlocal Agreement acknowledge that actions taken pursuant to this Interlocal Agreement will be consistent with local government comprehensive plans.

ARTICLE 3

MPO ORGANIZATION AND CREATION

Section 3.01. Establishment of MPO. The MPO for the metropolitan planning area as described in the membership apportionment plan approved by the Governor is hereby created and established pursuant to this Interlocal Agreement to carry out the purposes and functions set forth in Articles 2 and 5. The legal name of this Metropolitan Planning Organization shall be the Lake~Sumter Metropolitan Planning Organization.

Section 3.02. MPO to operate pursuant to law. In the event that any election, referendum, approval, permit, notice, other proceeding or authorization is required under applicable law to undertake any power, duty, or responsibility hereunder, or to observe, assume, or carry out any of the provisions of this Interlocal Agreement, the MPO will, to the extent of its legal capacity, comply with all applicable laws and requirements.

Section 3.03. Governing board to act as policy-making body of MPO. The governing board established pursuant to Section 4.01 of this Interlocal Agreement shall act as the policy-making body for the MPO, and will be responsible for coordinating the cooperative decision-making process of the MPO's actions, and will take required actions as the MPO.

Section 3.04. Data, reports, records, and other documents. Subject to the right to claim an exemption from the Florida Public Records Law, Chapter 119, F.S., the parties shall provide to each other such data, reports, records, contracts, and other documents in its possession relating to the MPO as is requested. Charges are to be in accordance with Chapter 119, F.S.

Section 3.05. Rights of review. All parties to this Interlocal Agreement and the affected federal funding agencies (e.g., FHWA, FTA, and FAA) shall have the rights of technical review and comment on MPO's projects.

ARTICLE 4

COMPOSITION; MEMBERSHIP; TERMS OF OFFICE

Section 4.01. Composition and membership of governing board.

- (a) The membership of the MPO shall consist of 16 voting members, 14 non-voting members and one (1) non-voting advisor. The names of the member local governmental entities and the voting apportionment of the MPO Governing Board as approved by the Governor shall be as follows:

Of the 30 voting and non-voting members, 16 voting positions are established, 14 of which are permanent voting positions and 2 are rotating voting positions. The permanent positions are assigned to: Lake County (5 votes), Sumter County (2 votes), Clermont (1 vote), Eustis (1 vote), Lady Lake (1 vote), Leesburg (1 vote), Minneola (1 vote), Mount Dora (1 vote) and Tavares (1 vote).

There are also two At-Large Representative Board members (2 votes), one assigned to each county, with voting privileges that rotate each year in alphabetical order among the non-voting member municipalities in each respective county. Lake County's At-Large vote rotates among Astatula, Fruitland Park, Groveland, Howey-in-the-Hills, Mascotte, Montverde and Umatilla. Sumter County's At-Large vote rotates among Bushnell, Center Hill, Coleman, Webster and Wildwood. The remaining four (4) members that have ex-officio, non-voting status are the Florida Central Railroad, the Lake County School Board, the Sumter County School Board and the Central Florida Expressway Authority. There is one (1) Florida Department of Transportation non-voting advisor.

- (b) All voting representatives shall be elected officials of general purpose local governments, except to the extent that the MPO includes, as part of its apportioned voting membership, a member of a statutorily authorized planning board or an official of an agency that operates or administers a major mode of transportation. All individuals acting as a representative of the governing board of the county, the city, or authority shall first be selected by said governing board.
- (c) The voting membership of an MPO shall consist of not fewer than 5 or more than 19 apportioned members, the exact number to be determined on an equitable geographic-population ratio basis by the Governor, based on an agreement among the affected units of general-purpose local government as required by federal rules and regulations and shall be in compliance with 339.175(3) F.S.
- (d) In the event that a governmental entity that is a member of the MPO fails to fill an assigned appointment to the MPO within sixty days after notification by the Governor of its duty to appoint a representative, the appointment shall then be made by the Governor from the eligible individuals of that governmental entity.

Section 4.02. Terms. The term of office of members of the MPO shall be four years. The membership of a member who is a public official automatically terminates upon said official leaving the elective or

appointive office for any reason, or may be terminated by a majority vote of the total membership of the governmental entity represented by the member. A vacancy shall be filled by the original appointing entity. A member may be appointed for one or more additional four year terms.

ARTICLE 5

AUTHORITIES, POWERS, DUTIES AND RESPONSIBILITIES

Section 5.01. General authority. The MPO shall have all authorities, powers and duties, enjoy all rights, privileges, and immunities, exercise all responsibilities and perform all obligations necessary or appropriate to managing a continuing, cooperative, and comprehensive transportation planning process as specified in Section 339.175(5) and (6), F.S.

Section 5.02. Specific authority and powers. The MPO shall have the following powers and authority:

- (a) As provided in Section 339.175(6)(g), F.S., the MPO may employ personnel and/or may enter into contracts with local or state agencies and private planning or engineering firms to utilize the staff resources of local and/or state agencies;
- (b) As provided in Section 163.01(14), F.S., the MPO may enter into contracts for the performance of service functions of public agencies;
- (c) As provided in Section 163.01(5)(j), F.S., the MPO may acquire, own, operate, maintain, sell, or lease real and personal property;
- (d) As provided in Section 163.01(5)(m), F.S., the MPO may accept funds, grants, assistance, gifts or bequests from local, state, and federal resources;
- (e) The MPO may promulgate rules to effectuate its powers, responsibilities, and obligations enumerated herein; provided, that said rules do not supersede or conflict with applicable local and state laws, rules and regulations; and
- (f) The MPO shall have such powers and authority as specifically provided in Section 163.01 and Section 339.175(2)(b), (5) and (6), F.S., and as may otherwise be provided by federal or state law.

Section 5.03. Duties and responsibilities. In addition to those duties and responsibilities set forth in Article 2, the MPO shall have the following duties and responsibilities:

- (a) As provided in Section 339.175(6)(d), F.S., the MPO shall create and appoint a technical advisory committee;
- (b) As provided in Section 339.175(6)(e), F.S., the MPO shall create and appoint a citizens' advisory committee;
- (c) As provided in Section 163.01(5)(o), F.S., the MPO shall be liable for any liabilities incurred by the MPO, and the MPO may respond to such liabilities through the purchase of insurance or bonds, the retention of legal counsel, the approval of settlements of claims by its governing board, or in any other manner agreed upon by the MPO. Nothing contained herein shall constitute a waiver by any party of its sovereign immunity or the provisions of section 768.28, F.S.;

- (d) As provided in Section 339.175(9), F.S., the MPO shall establish an estimated budget which shall operate on a fiscal year basis consistent with any requirements of the UPWP;
- (e) The MPO, in cooperation with the Department, shall carry out the metropolitan transportation planning process as required by Title 23 CFR Parts 420 and 450, and Title 49 CFR Part 613, Subpart A, and consistent with Chapter 339, F.S., and other applicable state and local laws;
- (f) As provided in Section 339.175(10)(a), F.S., the MPO shall enter into agreements with the Department, operators of public transportation systems and the metropolitan and regional intergovernmental coordination and review agencies serving the metropolitan area. These agreements will prescribe the cooperative manner in which the transportation planning process will be coordinated and included in the comprehensively planned development of the area;
- (g) Perform such other tasks presently or hereafter required by state or federal law;
- (h) Execute certifications and agreements necessary to comply with state or federal law; and
- (i) Adopt operating rules and procedures.

ARTICLE 6

FUNDING; INVENTORY REPORT; RECORD-KEEPING

Section 6.01. Funding. The Department shall allocate to the MPO for performance of its transportation planning and programming duties, an appropriate amount of federal transportation planning funds consistent with the approved planning funds formula.

Section 6.02. Inventory report. The MPO agrees to inventory, to maintain records of and to insure proper use, control, and disposal of all nonexpendable tangible property acquired pursuant to funding under this Interlocal Agreement. This shall be done in accordance with the requirements of Title 23 CFR Part 420, Subpart A, Title 49 CFR Part 18, Subpart C, and all other applicable federal regulations.

Section 6.03. Record-keeping and document retention. The Department and the MPO shall prepare and retain all records in accordance with federal and state requirements, including but not limited to 23 CFR Part 420, Subpart A, 49 CFR Part 18, Subpart C, 49 CFR §18.42, and Chapter 119, F.S.

Section 6.04 Compliance with laws. All parties shall allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the parties in conjunction with this Agreement. Specifically, if a party is acting on behalf of a public agency the party shall:

- (a) Keep and maintain public records that ordinarily and necessarily would be required by the Department in order to perform the services being performed by the party.
- (b) Provide the public with access to public records on the same terms and conditions that the Department would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.
- (d) Meet all requirements for retaining public records and transfer, at no cost, to the Department all public records in possession of the party upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the Department in a format that is compatible with the information technology systems of the Department.

ARTICLE 7

MISCELLANEOUS PROVISIONS

Section 7.01. Constitutional or statutory duties and responsibilities of parties. This Interlocal Agreement shall not be construed to authorize the delegation of the constitutional or statutory duties of any of the parties. In addition, this Interlocal Agreement does not relieve any of the parties of an obligation or responsibility imposed upon them by law, except to the extent of actual and timely performance thereof by one or more of the parties to this Interlocal Agreement or any legal or administrative entity created or authorized by this Interlocal Agreement, in which case this performance may be offered in satisfaction of the obligation or responsibility.

Section 7.02. Amendment of Interlocal Agreement. Amendments or modifications of this Interlocal Agreement may only be made by written agreement signed by all parties here to with the same formalities as the original Interlocal Agreement. No amendment may alter the apportionment or jurisdictional boundaries of the MPO without approval by the Governor.

Section 7.03. Duration; withdrawal procedure.

- (a) Duration. This Interlocal Agreement shall remain in effect until terminated by the parties to this Interlocal Agreement. The Interlocal Agreement shall be reviewed by the parties at least every five years, concurrent with the decennial census, and/or concurrent with a new Federal Reauthorization bill, and updated as necessary.
- (b) Withdrawal procedure. Any party, except Lake County, Sumter County, Lady Lake, Leesburg, Eustis, Tavares and Clermont may withdraw from this Interlocal Agreement after presenting in written form a notice of intent to withdraw to the other parties to this Interlocal Agreement and the MPO, at least 90 days prior to the intended date of withdrawal. Upon receipt of the intended notice of withdrawal:
 - (1) The withdrawing member and the MPO shall execute a memorandum reflecting the withdrawal of the member and alteration of the list of member governments that are signatories to this Interlocal Agreement. The memorandum shall be filed in the Office of the Clerk of the Circuit Court of each county in which a party hereto is located; and
 - (2) The MPO shall contact The Office of the Governor and the Governor, with the agreement of the remaining members of the MPO, shall determine whether any reapportionment of the membership is appropriate. The Governor and the MPO shall review the previous MPO designation, applicable federal, state and local law, and MPO rules for appropriate revision. In the event that another entity is to be afforded membership in the place of the member withdrawing from the MPO, the parties acknowledge that pursuant to Title 23 CFR §450.310(1)(2), adding membership to the MPO does not

automatically require redesignation of the MPO. In the event that a party who is not a signatory to this Interlocal Agreement is afforded membership in the MPO, membership shall not become effective until this Interlocal Agreement is amended to reflect that the new member has joined the MPO.

Section 7.04. Notices. All notices, demands and correspondence required or provided for under this Interlocal Agreement shall be in writing and delivered in person or dispatched by certified mail, postage prepaid, return receipt requested. Notice required to be given shall be addressed as follows:

Florida Department of Transportation
719 South Woodland Boulevard
Deland, FL 32720

Lake County Board of County Commissioners
315 W. Main St.
Tavares, FL 32778

Sumter County Board of County Commissioners
7375 Powell Road
Wildwood, FL 34785

Town of Astatula
PO Box 609
Astatula, FL 34705

City of Bushnell
PO Box 115
Bushnell, FL 33513

City of Center Hill
PO Box 649
Center Hill, FL 33514

City of Clermont
PO Box 120219
Clermont, FL 34711-0219

City of Coleman
PO Box 456
Coleman, FL 33521

City of Eustis
PO Drawer 68
Eustis, FL 32727-0068

City of Fruitland Park
506 W. Berckman St
Fruitland Park, FL 34731

City of Groveland
156 South Lake Ave
Groveland, FL 34736

Town of Howey-In-The-Hills
PO Box 128
Howey-In-The-Hills, FL 34737

Town of Lady Lake
409 Fennell Blvd.
Lady Lake, FL 32159

City of Leesburg
PO Box 490630
Leesburg, FL 34749-0630

City of Mascotte
100 E. Myers Blvd.
Mascotte, FL 34753

City of Minneola
PO Box 678
Minneola, FL 34755-0678

Town of Montverde
PO Box 560008
Montverde, FL 34756-0008

City of Mount Dora
510 N. Baker St
Mount Dora, FL 32757

City of Tavares
PO Box 1068
Tavares, FL 32778

City of Umatilla
PO Box 2286
Umatilla, FL 32784-2286

City of Webster
PO Box 28
Webster, FL 33597

City of Wildwood
110 N. Main St
Wildwood, FL 34785

Florida Central Railroad
PO Box 967
Plymouth, FL 32768

Lake County School Board
201 West Burleigh Blvd.
Tavares, FL 32778-2496

Sumter County School Board
PO Box 187
Lake Panasoffkee, FL 33538

Central Florida Expressway Authority
4974 ORL Tower Rd
Orlando, FL 32807

A party may unilaterally change its address or addressee by giving notice in writing to the other parties as provided in this section. Thereafter, notices, demands and other pertinent correspondence shall be addressed and transmitted to the new address.

Section 7.05. Interpretation.

- (a) Drafters of the Interlocal Agreement. The Department and the members of the MPO were each represented by or afforded the opportunity for representation by legal counsel and participated in the drafting of this Interlocal Agreement and in choice of wording. Consequently, no provision should be more strongly construed against any party as drafter of this Interlocal Agreement.
- (b) Severability. Invalidation of any one of the provisions of this Interlocal Agreement or any part, clause or word, or the application thereof in specific circumstances, by judgment, court order, or administrative hearing or order shall not affect any other provisions or applications in other circumstances, all of which shall remain in full force and effect; provided, that such remainder would then continue to conform to the terms and requirements of applicable law.
- (c) Rules of construction. In interpreting this Interlocal Agreement, the following rules of construction shall apply unless the context indicates otherwise:
 - (1) The singular of any word or term includes the plural;
 - (2) The masculine gender includes the feminine gender; and
 - (3) The word “shall” is mandatory, and “may” is permissive.

Section 7.06. Enforcement by parties hereto. In the event of any judicial or administrative action to enforce or interpret this Interlocal Agreement by any party hereto, each party shall bear its own costs and attorney’s fees in connection with such proceeding.

Section 7.07. Interlocal Agreement execution; Use of counterpart signature pages. This Interlocal Agreement, and any amendments hereto, may be simultaneously executed in several counterparts, each of

which so executed shall be deemed to be an original, and such counterparts together shall constitute one and the same instrument.

Section 7.08. Effective date; Cost of recordation.

- (a) Effective date. This Interlocal Agreement shall become effective upon its filing in the Office of the Clerk of the Circuit Court of each county in which a party hereto is located. Any amendment hereto shall become effective only upon its filing in the Office of the Clerk of the Circuit Court for each county in which a party hereto is located.
- (b) Recordation. The MPO hereby agrees to pay for any costs of recordation or filing of this Interlocal Agreement in the Office of the Circuit Court for each county in which a party is hereto located. The recorded or filed original, or any amendment, shall be returned to the MPO for filing in its records.

IN WITNESS WHEREOF, the undersigned parties have executed this Interlocal Agreement on behalf of the referenced legal entities and hereby establish the above designated MPO.

Signed, Sealed and Delivered in the presence of:

**FLORIDA DEPARTMENT OF
TRANSPORTATION**

Signature

Name/Title (typed or printed)

Date

Attest:

Name/Title (printed or typed)

Date

IN WITNESS WHEREOF, the undersigned parties have executed this Interlocal Agreement on behalf of the referenced legal entities and hereby establish the above designated MPO.

Signed, Sealed and Delivered in the presence of:

LAKE COUNTY BOARD OF COUNTY COMMISSIONERS

Signature

Name/Title (typed or printed)

Date

Attest:

Name/Title (printed or typed)

Date

IN WITNESS WHEREOF, the undersigned parties have executed this Interlocal Agreement on behalf of the referenced legal entities and hereby establish the above designated MPO.

Signed, Sealed and Delivered in the presence of:

SUMTER COUNTY BOARD OF COUNTY COMMISSIONERS

Signature

Name/Title (typed or printed)

Date

Attest:

Name/Title (printed or typed)

Date

IN WITNESS WHEREOF, the undersigned parties have executed this Interlocal Agreement on behalf of the referenced legal entities and hereby establish the above designated MPO.

Signed, Sealed and Delivered in the presence of:

TOWN OF ASTATULA

Signature

Name/Title (typed or printed)

Date

Attest:

Name/Title (printed or typed)

Date

IN WITNESS WHEREOF, the undersigned parties have executed this Interlocal Agreement on behalf of the referenced legal entities and hereby establish the above designated MPO.

Signed, Sealed and Delivered in the presence of:

CITY OF BUSHNELL

Signature

Name/Title (typed or printed)

Date

Attest:

Name/Title (printed or typed)

Date

IN WITNESS WHEREOF, the undersigned parties have executed this Interlocal Agreement on behalf of the referenced legal entities and hereby establish the above designated MPO.

Signed, Sealed and Delivered in the presence of:

CITY OF CENTER HILL

Signature

Name/Title (typed or printed)

Date

Attest:

Name/Title (printed or typed)

Date

IN WITNESS WHEREOF, the undersigned parties have executed this Interlocal Agreement on behalf of the referenced legal entities and hereby establish the above designated MPO.

Signed, Sealed and Delivered in the presence of:

CITY OF CLERMONT

Signature

Name/Title (typed or printed)

Date

Attest:

Name/Title (printed or typed)

Date

IN WITNESS WHEREOF, the undersigned parties have executed this Interlocal Agreement on behalf of the referenced legal entities and hereby establish the above designated MPO.

Signed, Sealed and Delivered in the presence of:

CITY OF COLEMAN

Signature

Name/Title (typed or printed)

Date

Attest:

Name/Title (printed or typed)

Date

IN WITNESS WHEREOF, the undersigned parties have executed this Interlocal Agreement on behalf of the referenced legal entities and hereby establish the above designated MPO.

Signed, Sealed and Delivered in the presence of:

CITY OF EUSTIS

Signature

Name/Title (typed or printed)

Date

Attest:

Name/Title (printed or typed)

Date

IN WITNESS WHEREOF, the undersigned parties have executed this Interlocal Agreement on behalf of the referenced legal entities and hereby establish the above designated MPO.

Signed, Sealed and Delivered in the presence of:

CITY OF FRUITLAND PARK

Signature

Name/Title (typed or printed)

Date

Attest:

Name/Title (printed or typed)

Date

IN WITNESS WHEREOF, the undersigned parties have executed this Interlocal Agreement on behalf of the referenced legal entities and hereby establish the above designated MPO.

Signed, Sealed and Delivered in the presence of:

CITY OF GROVELAND

Signature

Name/Title (typed or printed)

Date

Attest:

Name/Title (printed or typed)

Date

IN WITNESS WHEREOF, the undersigned parties have executed this Interlocal Agreement on behalf of the referenced legal entities and hereby establish the above designated MPO.

Signed, Sealed and Delivered in the presence of:

TOWN OF HOWEY-IN-THE-HILLS

Signature

Name/Title (typed or printed)

Date

Attest:

Name/Title (printed or typed)

Date

IN WITNESS WHEREOF, the undersigned parties have executed this Interlocal Agreement on behalf of the referenced legal entities and hereby establish the above designated MPO.

Signed, Sealed and Delivered in the presence of:

TOWN OF LADY LAKE

Signature

Name/Title (typed or printed)

Date

Attest:

Name/Title (printed or typed)

Date

IN WITNESS WHEREOF, the undersigned parties have executed this Interlocal Agreement on behalf of the referenced legal entities and hereby establish the above designated MPO.

Signed, Sealed and Delivered in the presence of:

CITY OF LEESBURG

Signature

Name/Title (typed or printed)

Date

Attest:

Name/Title (printed or typed)

Date

IN WITNESS WHEREOF, the undersigned parties have executed this Interlocal Agreement on behalf of the referenced legal entities and hereby establish the above designated MPO.

Signed, Sealed and Delivered in the presence of:

CITY OF MASCOTTE

Signature

Name/Title (typed or printed)

Date

Attest:

Name/Title (printed or typed)

Date

IN WITNESS WHEREOF, the undersigned parties have executed this Interlocal Agreement on behalf of the referenced legal entities and hereby establish the above designated MPO.

Signed, Sealed and Delivered in the presence of:

CITY OF MINNEOLA

Signature

Name/Title (typed or printed)

Date

Attest:

Name/Title (printed or typed)

Date

IN WITNESS WHEREOF, the undersigned parties have executed this Interlocal Agreement on behalf of the referenced legal entities and hereby establish the above designated MPO.

Signed, Sealed and Delivered in the presence of:

TOWN OF MONTVERDE

Signature

Name/Title (typed or printed)

Date

Attest:

Name/Title (printed or typed)

Date

IN WITNESS WHEREOF, the undersigned parties have executed this Interlocal Agreement on behalf of the referenced legal entities and hereby establish the above designated MPO.

Signed, Sealed and Delivered in the presence of:

CITY OF MOUNT DORA

Signature

Name/Title (typed or printed)

Date

Attest:

Name/Title (printed or typed)

Date

IN WITNESS WHEREOF, the undersigned parties have executed this Interlocal Agreement on behalf of the referenced legal entities and hereby establish the above designated MPO.

Signed, Sealed and Delivered in the presence of:

CITY OF TAVARES

Signature

Name/Title (typed or printed)

Date

Attest:

Name/Title (printed or typed)

Date

IN WITNESS WHEREOF, the undersigned parties have executed this Interlocal Agreement on behalf of the referenced legal entities and hereby establish the above designated MPO.

Signed, Sealed and Delivered in the presence of:

CITY OF UMATILLA

Signature

Name/Title (typed or printed)

Date

Attest:

Name/Title (printed or typed)

Date

IN WITNESS WHEREOF, the undersigned parties have executed this Interlocal Agreement on behalf of the referenced legal entities and hereby establish the above designated MPO.

Signed, Sealed and Delivered in the presence of:

CITY OF WEBSTER

Signature

Name/Title (typed or printed)

Date

Attest:

Name/Title (printed or typed)

Date

IN WITNESS WHEREOF, the undersigned parties have executed this Interlocal Agreement on behalf of the referenced legal entities and hereby establish the above designated MPO.

Signed, Sealed and Delivered in the presence of:

CITY OF WILDWOOD

Signature

Name/Title (typed or printed)

Date

Attest:

Name/Title (printed or typed)

Date

IN WITNESS WHEREOF, the undersigned parties have executed this Interlocal Agreement on behalf of the referenced legal entities and hereby establish the above designated MPO.

Signed, Sealed and Delivered in the presence of:

FLORIDA CENTRAL RAILROAD

Signature

Name/Title (typed or printed)

Date

Attest:

Name/Title (printed or typed)

Date

IN WITNESS WHEREOF, the undersigned parties have executed this Interlocal Agreement on behalf of the referenced legal entities and hereby establish the above designated MPO.

Signed, Sealed and Delivered in the presence of:

LAKE COUNTY SCHOOL BOARD

Signature

Name/Title (typed or printed)

Date

Attest:

Name/Title (printed or typed)

Date

IN WITNESS WHEREOF, the undersigned parties have executed this Interlocal Agreement on behalf of the referenced legal entities and hereby establish the above designated MPO.

Signed, Sealed and Delivered in the presence of:

SUMTER COUNTY SCHOOL BOARD

Signature

Name/Title (typed or printed)

Date

Attest:

Name/Title (printed or typed)

Date

IN WITNESS WHEREOF, the undersigned parties have executed this Interlocal Agreement on behalf of the referenced legal entities and hereby establish the above designated MPO.

Signed, Sealed and Delivered in the presence of:

**CENTRAL FLORIDA EXPRESSWAY
AUTHORITY**

Signature

Name/Title (typed or printed)

Date

Attest:

Name/Title (printed or typed)

Date



AGENDA MEMORANDUM

Item No: 5A

Meeting Date: December 7, 2015

From: Dan Miller, Planning and Zoning Manager

Subject: Rezoning of 73 +/- acres generally located on the north side of Griffin Road and east of CR 468 for Leesburg Fruit Company Incorporated (William Cauthen, Trustee)

Staff Recommendation:

The Planning and Zoning staff recommends approval of the proposed rezoning of 73 +/- acres for Leesburg Fruit Company Incorporated (William Cauthen, Trustee).

Analysis:

The applicant has submitted a request for to rezone approximately 73 acres of land generally located on the north side of Griffin Road and east of CR 468, as shown on the attached General Location Map. The property was last used as a tree farm. The current zoning is Lake County RP (Residential Professional), R-7 (Mixed Residential District) and A (Agricultural). The proposed zoning is City PUD (Planned Unit Development). The purpose of this request is to construct an alternative energy facility, focusing on solar energy and education.

The surrounding zoning of adjacent properties are County A (Agriculture), RP (Residential Professional), HM (Heavy Industrial) and R-7 (Mixed Residential District) as well as City M-1 (Industrial) and R-3 (High Density Residential). As conditioned, the proposed zoning does not appear to present a detriment to the surrounding properties.

Also on this City Commission agenda are Annexation and Large Scale Comprehensive Plan Amendment applications for this property, with recommendations for approval from the staff and Planning Commission.

Planning Commission met in a public hearing on October 15, 2015, and by a vote of 7 to 0, recommended approval.

Options:

1. Approve the requested rezoning. This would give the City jurisdiction over the use and future development of the subject site and provide for the application of City standards to this property.
2. Disapprove the proposed rezoning, thereby allowing the property to remain in the County.

Submission Date and Time: 12/3/2015 1:26 PM

<p>Department: <u>_Community Development_</u> Prepared by: <u>_Dan Miller</u> Attachments: <u>Yes</u> <u>No</u> Advertised: <u>Not Required</u> Dates: _____ Attorney Review : <u>Yes</u> <u>No</u> _____ Revised 6/10/04</p>	<p>Reviewed by: Dept. Head _____ Finance Dept. _____ Deputy C.M. _____ Submitted by: City Manager _____</p>	<p>Account No. _____ Project No. _____ WF No. _____ Budget _____ Available _____</p>
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ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LEESBURG, FLORIDA, REZONING APPROXIMATELY 73 ACRES GENERALLY LOCATED ON THE NORTH SIDE OF GRIFFIN ROAD, EAST OF COUNTY ROAD 468, LYING IN SECTIONS 16 AND 21, TOWNSHIP 19 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA, FROM LAKE COUNTY RP (RESIDENTIAL PROFESSIONAL), R-7 (MIXED RESIDENTIAL DISTRICT) AND A (AGRICULTURAL), TO CITY PUD (PLANNED UNIT DEVELOPMENT); AND PROVIDING AN EFFECTIVE DATE. (Leesburg Fruit Company Incorporated, William Cauthen, Trustee)

BE IT ENACTED BY THE PEOPLE OF THE CITY OF LEESBURG, FLORIDA, that:

Section 1.

Based upon the petition of Leesburg Fruit Company, (William Cauthen, Trustee) the petitioner of the property hereinafter described, which petition has heretofore been approved by the City Commission of the City of Leesburg Florida, pursuant to the provisions of the Laws of Florida, the said property located in Lake County, Florida, is hereby rezoned from Lake County RP (Residential Professional), R-7 (Mixed Residential District) and A (Agricultural), to City PUD (Planned Unit Development), to-wit:

(Legal Description)
(See Exhibit B)

Section 2.

This ordinance shall become effective upon its passage and adoption, according to law.

PASSED AND ADOPTED at the regular meeting of the City Commission of the City of Leesburg, Florida, held on the _____ day of _____, 2015.

THE CITY OF LEESBURG

By: _____
Elise A. Dennison, Mayor

ATTEST:

J. Andi Purvis, City Clerk

**LEESBURG FRUIT COMPANY AND WILLIAM H. CAUTHEN, TRUSTEE
(LEESBURG FRUIT COMPANY)
PLANNED UNIT DEVELOPMENT CONDITIONS
October 15, 2015**

This Planned Unit Development Conditions for a PUD (Planned Unit Development) District is granted by the City of Leesburg, Lake County, Florida to Leesburg Fruit Company, (William H. Cauthen, Trustee) "Permittee" for the purposes and subject to the terms and conditions as set forth herein pursuant to authority contained in Chapter 25 "Zoning", Section 25-278 "Planned Unit Development" of the City of Leesburg Code of Ordinances, as amended.

BACKGROUND: The "Permittee" has requested a Planned Unit Development (PUD) zoning district to allow construction of a proposed solar energy farm development comprised of solar energy panels, scientific research with related offices and an educational component on approximately 73 acres generally located on the north side of Griffin Road, east of County Road 468, on a site annexed into the City of Leesburg in accordance with their PUD application and supplemental information.

1. **PERMISSION** is hereby granted to Leesburg Fruit Company, (William H. Cauthen, Trustee) to construct, operate, and maintain a Planned Unit Development in and on real property in the City of Leesburg, in accordance with the requirements set forth herein. The property is more particularly described as follows:
2. **LEGAL DESCRIPTION:**
See attached legal Exhibit B.
3. **LAND USE AND DEVELOPMENT STANDARDS**
The above-described property, containing approximately 73 acres, shall be used for a solar energy farm, scientific research with related offices and educational uses pursuant to City of Leesburg development codes and standards.
 - A. **Permitted Uses**
 1. Solar energy farming, to include solar reflective panels support structures and related devices for collection, storage and distribution of solar energy.
 2. Scientific research laboratories.
 3. Educational uses, instruction, and classrooms.
 4. Office uses to support solar farming, research and education uses.
 5. Retail and wholesale sales of the solar energy related products.
 6. Accessory structures for the above referenced uses.
 7. Temporary modular office uses shall be allowed during construction.
 8. One security guard residential unit.
 9. Agricultural uses currently conducted onsite.
 10. Retail and wholesale uses not related to collection, storage and distribution of solar energy uses; however, such uses shall not exceed 25% of the site.
 - B. **Prohibited Uses**

1. Residential units.
2. All uses not specifically permitted within these conditions under Permitted Uses above shall be prohibited.

C. Development Standards

- 1) **Construction of buildings on the property shall adhere to the following standards**
 - a. Building Setbacks
 - i. Front: 30 feet
 - ii. Rear: 20 feet
 - iii. Side: 10 feet
 - iv. Corner lots on interior roadways shall have a minimum side yard setback of 20 feet from the interior roadway.
 - v. Setbacks shall be measured from the edge of the roadway for buildings located on interior private roads, and from the right of way of buildings located on public roadways.
 - b. Building Height
 - i. Maximum building height shall be three (3) stories or 45 feet
 - c. Impervious Surface
 - i. Maximum impervious surface shall be 80 percent.
 - d. Distance between structures
 - i. Minimum distance between buildings shall be 10 feet; measured from building wall to building wall; the roof overhang shall not exceed 40 percent of the distance between the building wall and the property line.
- 2) **As part of the site plan approval process, city staff shall review final site design standards in accordance with the approved PUD (Planned Unit Development) zoning conditions set forth herein.**

4. SITE ACCESS

- A. Primary access to the property shall be from Griffin Road, and shall be reviewed and approved through the City of Leesburg development and permitting processes. Any additional access shall be subject to the City of Leesburg PUD amendment and site plan application review process.
- B. All access points are subject to review and approval by the appropriate permitting agency, including FDOT, Lake-Sumter Metropolitan Planning Organization, Lake County and the City of Leesburg as applicable.

5. PARKING

- A. Standard Parking Requirements
 1. The permittee shall provide off-street parking spaces within the property per the conceptual site plan, as amended, pursuant to the City of Leesburg Code of Ordinances, as amended, for the each uses as proposed.
- B. Handicapped parking requirements

1. Parking requirements for handicapped accessible spaces, including number, size and design shall be met through providing the required number based on the City of Leesburg Code of Ordinances, as amended. Handicap parking standards of the Americans with Disabilities Act shall apply.

C. Limitations

1. The location and design of the proposed parking areas will be reviewed during the site plan review process to provide for adequate parking, which may limit the permitted uses of the site.

6. **STORMWATER MANAGEMENT/UTILITIES**

Prior to receiving final development approval, the Permittee shall submit a stormwater management plan and utility plan acceptable to the City of Leesburg. Prior to any clearing, grubbing, or disturbance of natural vegetation in any phase of the development, the Permittee shall provide:

- A. A detailed site plan that demonstrates no direct discharge of stormwater runoff generated by the development into any wetlands or onto adjacent properties.
- B. A stormwater management system designed and implemented to meet all applicable St. Johns River Water Management District and City of Leesburg requirements.
- C. A responsible legal entity for the maintenance of the stormwater management system shall be required. A property owners association or similar organization is an acceptable maintenance entity.
- D. The 100-year flood plain shown on all plans and lots.
- E. The appropriate documentation that any flood hazard boundary has been amended in accordance with Federal Emergency Management Agency requirements, if the 100 year flood plain is altered and /or a new 100 year flood elevation is established in reference to the applicable flood insurance rate map.
- F. A copy of the Management and Storage of Surface Waters permit obtained from St. Johns River Water Management District shall be provided to the City during the site plan review process.
- G. Should the Permittee desire to dedicate the proposed project's stormwater management system to the City of Leesburg; the City, at its discretion, may accept or not accept the stormwater management system. Prior to acceptance, the Permittee shall demonstrate to the City the stormwater management system is in a suitable condition and meets City of Leesburg and St. Johns River Water Management District requirements. As a condition of accepting the system the City may create a special taxing district or make other lawful provisions to assess the cost of maintenance of the system to the residents of the project.

7. **WETLANDS AND FLOOD ZONES**

- A. All wetlands on the project site shall be identified by a jurisdictional wetland boundary line, and the location and extent of each wetland shall be determined by the Department of Environmental Protection, St. Johns River Water Management District and/or U.S. Army Corp of Engineers. Each wetland shall be placed on a suitable map, signed and sealed by a surveyor registered to practice in Florida and shall be submitted as part of the preliminary plat application.

- B. Buildings or structures shall be a minimum of 50 feet from any wetland jurisdiction boundary.
- C. Wetlands shall have a minimum upland buffer of 30 feet or the upland buffer established by St. Johns River Water Management District and/or U.S. Army Corp of Engineers; whichever is more restrictive. All upland buffers shall be naturally vegetated and upland buffers that are devoid of natural vegetation shall be re-planted with native vegetation or as required by St. Johns River Water Management District and/or U.S. Army Corp of Engineers.
- D. Land uses allowed within the upland buffers for wetlands are limited to stormwater facilities as permitted by St. Johns River Water Management District.
- E. If wetland alteration is permitted by St. Johns River Water Management District and/or U.S. Army Corp of Engineers, wetland mitigation shall be required in accordance with permit approvals from St. Johns River Water Management District or U.S. Army Corp of Engineers, whichever is more restrictive.
- F. A wildlife management plan for the project site shall be prepared based on the results of an environmental assessment of the site and any environmental permit required from applicable governmental agencies. The wildlife management plan shall be submitted to the City as part of the site plan application process.
- G. A map indicating the location of the 100-year flood plain.
- H. The appropriate documentation that any flood hazard boundary has been amended in accordance with Federal Emergency Management Agency requirements, if the 100 year flood plain is altered and/or a new 100 year flood elevation is established in reference to the applicable flood insurance rate map.

8. DRAINAGE AND UTILITIES

- A. Prior to receiving Final Development Plan Approval, the "Permittee" shall submit, if applicable, a Master Site Drainage Plan and Utility Implementation Plan acceptable to the City of Leesburg. Prior to removal, renovation or demolition of any existing development on the site, the permittee shall provide:
 - 1) A detailed site plan demonstrating no direct discharge of stormwater runoff generated by the development into any natural surface waters or onto adjacent properties shall be required.
 - 1) A detailed site plan indicating all provisions for electric, water, sewer, and natural gas in accordance with the site plan review process as required by the City of Leesburg Code of Ordinances.
 - 2) The City of Leesburg intends to service the property with water and wastewater services at this time. At the time of connection, all regulations in place at the time of the request shall be required, including but not limited to impact fees, connection and utility service deposit charges. The cost of supplying all water and wastewater lines and other necessary infrastructure such as lift stations to the

development shall be the responsibility of the applicant.

9. **TRANSPORTATION IMPROVEMENTS**

- A. Any transportation improvements or right-of-way that may be required shall be based on projected needs and shall be contingent upon site plan approval by City staff during the development review and permitting process.
- B. The primary entrance shall be from Griffin Road on the south side of the development. Secondary access, if desired shall be reviewed by the Development Review Committee during site plan review process.
- C. The Permittee shall provide all necessary improvements/signalization within and adjacent to the development as required by Lake County, the Lake-Sumter MPO and City of Leesburg.
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- F. The City of Leesburg will not be responsible for the maintenance or repair of any of the roads or transportation improvements. The Permittee or owner shall be responsible to pay the cost and perform the services to maintain the roads and transportation improvements. Should the Permittee desire to dedicate the proposed project's internal road system to the City of Leesburg; the City, at its discretion, may accept or not accept the road system. Prior to acceptance, the Permittee shall demonstrate to the City that the road system is in suitable condition and meets City of Leesburg requirements. As a condition of accepting the roadway system the City may create a special taxing district or make other lawful provisions to assess the cost of maintenance of the system to the owner(s) of the project, and may require bonds or other financial assurance of maintenance for some period of time.
- G. A traffic/transportation study shall be submitted prior to site plan approval for review and determination of any necessary access improvements, including any off-site improvements required by FDOT, Lake County, the Lake-Sumter MPO or the City of Leesburg. Said improvements will be the responsibility of the Permittee.

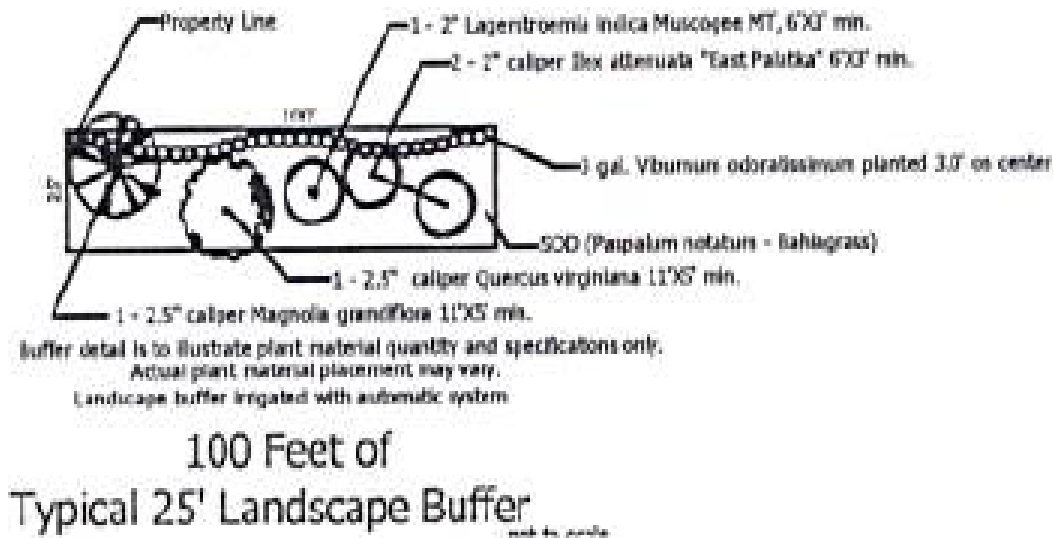
10. **LANDSCAPING AND BUFFER REQUIREMENTS**

- A. A twenty-five (25) foot buffer shall be provided along Griffin Avenue. ~~A ten foot (10) twenty-five (25) foot opaque buffer, fence and berm shall be provided along the eastern boundary contiguous to Leesburg Concrete Company, and a ten foot (10) buffer shall be provided along the remainder of the eastern boundary and western property boundary.~~ No buffer shall be required along the northern boundary as the property owner owns the adjacent parcel which will also be utilized as a solar farm. In the event the property is sold, a ten-foot (10) buffer shall be maintained.

Figure A

Canopy Trees (per 100 l.f.)	2 per 100 linear ft
Tree CAL/Height	2" cal, 12' overall height
Optional Ornamental Trees (per 100 l.f.)	3 per 100 linear ft
Tree CAL/Height	2" cal, 7' overall height
Shrub Screen (per 100 l.f.)	
Square Ft. of Shrubs	(33) 3 gal plants, 18"—24" minimum at installation (depending on species); hedges to be 36"—42" high by thirty-six (36) inches wide hedge or continuous landscape screen with a ninety (90) percent opacity within one (1) year of planting
Container size	3 gal

Figure B



- C. Variations to the landscape requirements of the code may be approved by the Community Development Director or designee, as long as the intent of the PUD and the Landscaping Code are maintained, including consideration of existing fencing on adjacent properties and existing natural vegetative buffers.

11. MAINTENANCE

- A. With the exception of any public utilities, maintenance of all site improvements, including but not limited to roadways, drives, internal sidewalks, landscaping and drainage shall be the responsibility of the property owner. A homeowners association shall serve as an appropriate entity for all common properties within the development.

12. DEVELOPMENT PHASING

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13. DESIGN REQUIREMENTS

- A. Exterior building materials contribute significantly to the visual impact of a building on the community. These materials shall be well designed and integrated into a comprehensive design style for the project. The total exterior wall area of each building elevation shall be composed of one of the following:
 - 1) At least thirty-five percent (35%) full-width brick or stone (not including window and door areas and related trim areas), with the balance being any type of lap siding and/or stucco.
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- A. The uses of the proposed project shall only be those uses identified in the approved Planned Unit Development Conditions. Any other proposed use must be specifically authorized in accordance with the Planned Development amendment process.
- B. No person, firm or corporation shall erect, construct, enlarge, alter, repair, remove, improve, move, convert, or demolish any building structure, or alter the land in any manner without first submitting the necessary plans and obtaining appropriate approvals in accordance with the City of Leesburg Codes.
- C. Construction and operation of the proposed use(s) shall at all times comply with the Planned Unit Development conditions set forth herein, and with all City and other governmental agencies rules and regulations.
- D. The transfer of ownership or lease of any or all of the property described in this PUD Agreement shall include in the transfer or lease agreement, a provision that the purchaser or lessee is made good and aware of the conditions pertaining to the Planned Unit Development established and agrees to be bound by these conditions. The purchaser or lessee may request a change from the existing plans and conditions by following the procedures as described in the City of Leesburg Land Development Code, as amended.
- E. These PUD Conditions shall inure to the benefit of, and shall constitute a covenant running with the land and the terms, conditions, and provisions hereof, and shall be binding upon the present owner and any successor, and shall be subject to each and every condition as set forth herein.

15. LEVELS OF SERVICE

A. Levels of Service

- 1. As submitted, the proposed zoning change does not appear to result in demands on public facilities which would exceed the current capacity of some public facilities, such as, but not limited to water, wastewater, roads, drainage, and solid waste. However, no final development order (site plan and building permits) shall be granted for proposed development until there is a finding that all public facilities and services required for the development have sufficient capacity at or above the adopted level of service (LOS) to accommodate the impacts of the development, or that improvements necessary to bring facilities up to their adopted LOS will be in place concurrent with the impacts of the development.

B. Utilities

1. Projected Capacities

- a. The City's utility planning efforts draw upon phasing, capacity and service requirements, based upon information provided by the applicant. The City develops its plans consistent with sound engineering principles, prudent fiscal practices and due regard for regulatory compliance.

- b. If the development requires construction of new distribution or collection lines, the developer will be required to construct such facilities to provide service. The developer will bear the cost of design, permitting and construction. Any such facilities must be constructed in a fashion consistent with the City's master plans and to the City standards and specifications.
- 2. Commitment of Capacity
 - a. There are no previous commitments of any existing or planned excess capacity.
- 3. Ability to Provide Services
 - a. At this time, the City intends to provide water, wastewater and reclaimed water service to this development.

Legal Description

Legal Description – City of Leesburg Parcel (REVISED)

DESCRIPTION:

A PARCEL OF LAND LYING IN A PORTION OF SECTION 16, TOWNSHIP 19 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHEAST CORNER OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 16, TOWNSHIP 19 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA; THENCE SOUTH ALONG THE EAST LINE OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 16, TO THE NORTHEAST CORNER OF THE NORTH 495.00 FEET OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 16; THENCE CONTINUE SOUTH ALONG THE EAST LINE OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 16 TO THE SOUTHEAST CORNER OF THE NORTH 495.00 FEET OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 16; THENCE CONTINUE SOUTH ALONG SAID EAST LINE OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 TO THE NORTHEAST CORNER OF THE SOUTH 272.50 FEET OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 16; THENCE SOUTH ALONG SAID EAST LINE OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 16 A DISTANCE OF 272.50 FEET TO THE NORTH RIGHT-OF-WAY LINE OF GRIFFIN ROAD; THENCE WEST ALONG SAID NORTH RIGHT-OF-WAY LINE OF GRIFFIN ROAD TO THE EAST LINE OF SAID EDGEWOOD PARK, ADDITION NO. 2, AS RECORDED IN PLAT BOOK 12, PAGE 61, PUBLIC RECORDS OF LAKE COUNTY, FLORIDA; THENCE NORTH ALONG THE EAST LINE OF SAID EDGEWOOD PARK, ADDITION NO. 2 TO THE SOUTHEAST CORNER OF LOT 17, OF SAID EDGEWOOD PARK, ADDITION NO. 2; THENCE WEST ALONG THE SOUTH LINE OF LOTS 17 AND 16, OF SAID EDGEWOOD PARK, ADDITION NO. 2 TO THE SOUTHWEST CORNER OF LOT 16 OF EDGEWOOD PARK, ADDITION NO. 2; THENCE NORTH ALONG THE WEST LINE OF SAID LOT 16 TO THE NORTHWEST CORNER OF SAID LOT 16, SAID POINT BEING ON THE NORTH LINE OF THE SOUTH 1/2 OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 16; THENCE WEST ALONG SAID SOUTH LINE TO THE WEST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 16; THENCE NORTH 1594.20 FEET MORE OR LESS TO A POINT THAT IS WEST OF THE POINT OF BEGINNING; THENCE EAST 1320 FEET, MORE OR LESS, TO THE NORTHEAST CORNER OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 16 AND THE POINT OF TERMINUS OF THIS DESCRIPTION.

CONCEPTUAL SITE PLAN

EXHIBIT C



Leesburg Fruit Co., Inc.

Concept Plan



**CITY OF LEESBURG PLANNING & ZONING DIVISION
DEPARTMENTAL REVIEW SUMMARY**

DATE: October 14, 2015
OWNER: William Cauthen
PETITIONER: Greg Beliveau
PROJECT: Leesburg Fruit Company
REQUEST: Rezoning
CASE NO.: RZ-15-113

THE FOLLOWING COMMENTS RECEIVED FROM EACH DEPARTMENT:

POLICE

No comments received as of 10/14/15

FIRE

“Nothing from Fire.” – David Johnson – 09/30/15

ELECTRIC

“Electric has no objections. The property can be fed from a couple of different directions.” – Steve Davis – 9/29/15

WATER DISTRIBUTION

“Potable water is available on the south side of Griffin road at the intersection of Snowburger drive, extension of service will the responsibility of a developer.” – Gary Hunnewell – 10/01/15.

WATER BACKFLOW

“Water backflow has no objections.” – Helga Bundy – 09/30/15.

STORMWATER

“No issues with Stormwater.” – Robert Beard – 9/30/15

WASTEWATER

“Connection to sanitary will require offsite construction.” – Robert Beard – 9/30/15

GAS

Approved by the City of Leesburg Gas Department – per Kim Keenan – Gas Distribution Coordinator, 09/30/15

GIS

No comments received as of 10/14/15

BUILDING

No comments received as of 10/14/15

ENGINEERING/PUBLIC WORKS/SURVEY

No comments received as of 10/14/15

ADDRESSING

“Approved for legal.” – Adrian Parker – 9/30/15

ECONOMIC DEVELOPMENT

No comments received as of 10/14/15

PUBLIC RESPONSES

Approval

William L Polk – PO Box 1637, Leesburg, FL 34749 – (352)408-7797

Disapproval

Howard K. & Karen A. King – 2434 Marcella Way, Leesburg, FL 34748 – hkkaking48@gmail.com

Cannot approve without the following information:

1. How many units per acre (homes or apts)?
2. Where is access?
3. What will traffic impact be?
4. What kind of buffer?
5. What price points?
6. Sewer or septic?

OTHER PUBLIC RESPONSES

Vickie and Larry Bailey – 33030 Sanford Street, Leesburg, FL 34748 – lbelectrical@lbccservices.com



**CITY OF LEESBURG PLANNING & ZONING DIVISION
RECOMMENDATIONS**

OWNER: Leesburg Fruit Company, and William H. Cauthen, Trustee
PROJECT: Leesburg Fruit Company
REQUEST: Planned Developments Rezoning - PUD (Planned Unit Development)
CASE NO.: RZ-15-113
MEETING DATE: October 15, 2015

THE PLANNING & ZONING DIVISION RECOMMENDS:

APPROVAL of the request

for the following reason(s):

1. The proposed request to rezone the subject property from County R-P (Residential Professional) and R-7 (Mixed Residential) to City PUD (Planned Unit Development) as conditioned, is compatible with adjacent properties zoned County R-1 (Rural Residential), RP (Residential Professional), MP (Planned Industrial) R-7 (Mixed Residential District) and A (Agriculture); and with properties zoned City R-3 (High Density Residential) M-1 (Industrial).
2. The proposed request as conditioned is compatible with adjacent properties having Lake County future land use designations of Urban High Density and Industrial; and with adjacent properties in the City having future land use designations of High Density Residential and Institutional.
3. The proposed request is consistent with the City's Growth Management Plan, Future Land Use Element, Goal I, Objective 1.6.

Action Requested:

1. Vote to approve the recommendation to rezone the subject property County RP (Residential Professional) and R-7 (Mixed Residential District) to City PUD (Planned Unit Development) with the Planned Unit Development Conditions attached as Exhibits A-C hereto, dated October 15, 2015 and forward to the City Commission for consideration.

**LEESBURG FRUIT COMPANY AND WILLIAM H. CAUTHEN, TRUSTEE
(LEESBURG FRUIT COMPANY)
PLANNED UNIT DEVELOPMENT CONDITIONS
October 15, 2015**

This Planned Unit Development Conditions for a PUD (Planned Unit Development) District is granted by the City of Leesburg, Lake County, Florida to Leesburg Fruit Company, (William H. Cauthen, Trustee) "Permittee" for the purposes and subject to the terms and conditions as set forth herein pursuant to authority contained in Chapter 25 "Zoning", Section 25-278 "Planned Unit Development" of the City of Leesburg Code of Ordinances, as amended.

BACKGROUND: The "Permittee" has requested a Planned Unit Development (PUD) zoning district to allow construction of a proposed solar energy farm development comprised of solar energy panels, scientific research with related offices and an educational component on approximately 73 acres generally located on the north side of Griffin Road, east of County Road 468, on a site annexed into the City of Leesburg in accordance with their PUD application and supplemental information.

1. **PERMISSION** is hereby granted to Leesburg Fruit Company, (William H. Cauthen, Trustee) to construct, operate, and maintain a Planned Unit Development in and on real property in the City of Leesburg, in accordance with the requirements set forth herein. The property is more particularly described as follows:
2. **LEGAL DESCRIPTION:**
See attached legal Exhibit B.
3. **LAND USE AND DEVELOPMENT STANDARDS**
The above-described property, containing approximately 73 acres, shall be used for a solar energy farm, scientific research with related offices and educational uses pursuant to City of Leesburg development codes and standards.
 - A. **Permitted Uses**
 1. Solar energy farming, to include solar reflective panels support structures and related devices for collection, storage and distribution of solar energy.
 2. Scientific research laboratories.
 3. Educational uses, instruction, and classrooms.
 4. Office uses to support solar farming, research and education uses.
 5. Retail and wholesale sales of the solar energy related products.
 6. Accessory structures for the above referenced uses.
 7. Temporary modular office uses shall be allowed during construction.
 8. One security guard residential unit.
 9. Agricultural uses currently conducted onsite.
 10. Retail and wholesale uses not related to collection, storage and distribution of solar energy uses; however, such uses shall not exceed 25% of the site.
 - B. **Prohibited Uses**
 1. Residential units.
 2. All uses not specifically permitted within these conditions under Permitted Uses above shall be prohibited.

C. Development Standards

- 1) Construction of buildings on the property shall adhere to the following standards
 - a. Building Setbacks
 - i. Front: 30 feet
 - ii. Rear: 20 feet
 - iii. Side: 10 feet
 - iv. Corner lots on interior roadways shall have a minimum side yard setback of 20 feet from the interior roadway.
 - v. Setbacks shall be measured from the edge of the roadway for buildings located on interior private roads, and from the right of way of buildings located on public roadways.
 - b. Building Height
 - i. Maximum building height shall be three (3) stories or 45 feet
 - c. Impervious Surface
 - i. Maximum impervious surface shall be 80 percent.
 - d. Distance between structures
 - i. Minimum distance between buildings shall be 10 feet; measured from building wall to building wall; the roof overhang shall not exceed 40 percent of the distance between the building wall and the property line.
- 2) As part of the site plan approval process, city staff shall review final site design standards in accordance with the approved PUD (Planned Unit Development) zoning conditions set forth herein.

4. SITE ACCESS

- A. Primary access to the property shall be from Griffin Road, and shall be reviewed and approved through the City of Leesburg development and permitting processes. Any additional access shall be subject to the City of Leesburg PUD amendment and site plan application review process.
- B. All access points are subject to review and approval by the appropriate permitting agency, including FDOT, Lake-Sumter Metropolitan Planning Organization, Lake County and the City of Leesburg as applicable.

5. PARKING

- A. Standard Parking Requirements
 1. The permittee shall provide off-street parking spaces within the property per the conceptual site plan, as amended, pursuant to the City of Leesburg Code of Ordinances, as amended, for the each uses as proposed.
- B. Handicapped parking requirements
 1. Parking requirements for handicapped accessible spaces, including number, size and design shall be met through providing the required number based on the City of Leesburg Code of Ordinances, as amended. Handicap parking standards of the Americans with Disabilities Act shall apply.

C. Limitations

1. The location and design of the proposed parking areas will be reviewed during the site plan review process to provide for adequate parking, which may limit the permitted uses of the site.

6. STORMWATER MANAGEMENT/UTILITIES

Prior to receiving final development approval, the Permittee shall submit a stormwater management plan and utility plan acceptable to the City of Leesburg. Prior to any clearing, grubbing, or disturbance of natural vegetation in any phase of the development, the Permittee shall provide:

- A. A detailed site plan that demonstrates no direct discharge of stormwater runoff generated by the development into any wetlands or onto adjacent properties.
- B. A stormwater management system designed and implemented to meet all applicable St. Johns River Water Management District and City of Leesburg requirements.
- C. A responsible legal entity for the maintenance of the stormwater management system shall be required. A property owners association or similar organization is an acceptable maintenance entity.
- D. The 100-year flood plain shown on all plans and lots.
- E. The appropriate documentation that any flood hazard boundary has been amended in accordance with Federal Emergency Management Agency requirements, if the 100 year flood plain is altered and /or a new 100 year flood elevation is established in reference to the applicable flood insurance rate map.
- F. A copy of the Management and Storage of Surface Waters permit obtained from St. Johns River Water Management District shall be provided to the City during the site plan review process.
- G. Should the Permittee desire to dedicate the proposed project's stormwater management system to the City of Leesburg; the City, at its discretion, may accept or not accept the stormwater management system. Prior to acceptance, the Permittee shall demonstrate to the City the stormwater management system is in a suitable condition and meets City of Leesburg and St. Johns River Water Management District requirements. As a condition of accepting the system the City may create a special taxing district or make other lawful provisions to assess the cost of maintenance of the system to the residents of the project.

7. WETLANDS AND FLOOD ZONES

- A. All wetlands on the project site shall be identified by a jurisdictional wetland boundary line, and the location and extent of each wetland shall be determined by the Department of Environmental Protection, St. Johns River Water Management District and/or U.S. Army Corp of Engineers. Each wetland shall be placed on a suitable map, signed and sealed by a surveyor registered to practice in Florida and shall be submitted as part of the preliminary plat application.
- B. Buildings or structures shall be a minimum of 50 feet from any wetland jurisdiction boundary.
- C. Wetlands shall have a minimum upland buffer of 30 feet or the upland buffer established by St. Johns River Water Management District and/or U.S. Army Corp of Engineers; whichever is more restrictive. All upland buffers shall be naturally vegetated and upland

buffers that are devoid of natural vegetation shall be re-planted with native vegetation or as required by St. Johns River Water Management District and/or U.S. Army Corp of Engineers.

- D. Land uses allowed within the upland buffers for wetlands are limited to stormwater facilities as permitted by St. Johns River Water Management District.
- E. If wetland alteration is permitted by St. Johns River Water Management District and/or U.S. Army Corp of Engineers, wetland mitigation shall be required in accordance with permit approvals from St. Johns River Water Management District or U.S. Army Corp of Engineers, whichever is more restrictive.
- F. A wildlife management plan for the project site shall be prepared based on the results of an environmental assessment of the site and any environmental permit required from applicable governmental agencies. The wildlife management plan shall be submitted to the City as part of the site plan application process.
- G. A map indicating the location of the 100-year flood plain.
- H. The appropriate documentation that any flood hazard boundary has been amended in accordance with Federal Emergency Management Agency requirements, if the 100 year flood plain is altered and/or a new 100 year flood elevation is established in reference to the applicable flood insurance rate map.

8. DRAINAGE AND UTILITIES

- A. Prior to receiving Final Development Plan Approval, the "Permittee" shall submit, if applicable, a Master Site Drainage Plan and Utility Implementation Plan acceptable to the City of Leesburg. Prior to removal, renovation or demolition of any existing development on the site, the permittee shall provide:
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 - 1) A detailed site plan indicating all provisions for electric, water, sewer, and natural gas in accordance with the site plan review process as required by the City of Leesburg Code of Ordinances.
 - 2) The City of Leesburg intends to service the property with water and wastewater services at this time. At the time of connection, all regulations in place at the time of the request shall be required, including but not limited to impact fees, connection and utility service deposit charges. The cost of supplying all water and wastewater lines and other necessary infrastructure such as lift stations to the development shall be the responsibility of the applicant.

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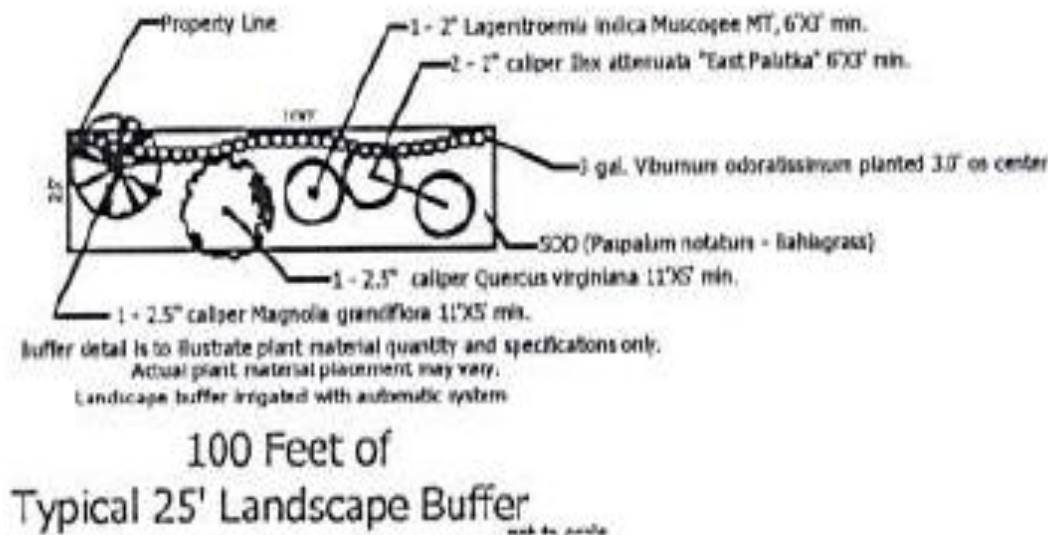
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- C. Construction and operation of the proposed use(s) shall at all times comply with the Planned Unit Development conditions set forth herein, and with all City and other governmental agencies rules and regulations.
- D. The transfer of ownership or lease of any or all of the property described in this PUD Agreement shall include in the transfer or lease agreement, a provision that the purchaser or lessee is made good and aware of the conditions pertaining to the Planned Unit Development established and agrees to be bound by these conditions. The purchaser or lessee may request a change from the existing plans and conditions by following the procedures as described in the City of Leesburg Land Development Code, as amended.
- E. These PUD Conditions shall inure to the benefit of, and shall constitute a covenant running with the land and the terms, conditions, and provisions hereof, and shall be binding upon the present owner and any successor, and shall be subject to each and every condition as set forth herein.

15. **LEVELS OF SERVICE**

A. Levels of Service

1. As submitted, the proposed zoning change does not appear to result in demands on public facilities which would exceed the current capacity of some public facilities, such as, but not limited to water, wastewater, roads, drainage, and solid waste. However, no final development order (site plan and building permits) shall be granted for proposed development until there is a finding that all public facilities and services required for the development have sufficient capacity at or above the adopted level of service (LOS) to accommodate the impacts of the development, or that improvements necessary to bring facilities up to their adopted LOS will be in place concurrent with the impacts of the development.

B. Utilities

1. Projected Capacities

- a. The City's utility planning efforts draw upon phasing, capacity and service requirements, based upon information provided by the applicant. The City develops its plans consistent with sound engineering principles, prudent fiscal practices and due regard for regulatory compliance.
- b. If the development requires construction of new distribution or collection lines, the developer will be required to construct such facilities to provide service. The developer will bear the cost of design, permitting and construction. Any such facilities must be constructed in a fashion consistent with the City's master plans and to the City standards and specifications.

2. Commitment of Capacity

- a. There are no previous commitments of any existing or planned excess capacity.

3. Ability to Provide Services

- a. At this time, the City intends to provide water, wastewater and reclaimed water service to this development.

Legal Description

Legal Description – City of Leesburg Parcel (REVISED)

DESCRIPTION:

A PARCEL OF LAND LYING IN A PORTION OF SECTION 16, TOWNSHIP 19 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHEAST CORNER OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 16, TOWNSHIP 19 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA; THENCE SOUTH ALONG THE EAST LINE OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 16, TO THE NORTHEAST CORNER OF THE NORTH 495.00 FEET OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 16; THENCE CONTINUE SOUTH ALONG THE EAST LINE OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 16 TO THE SOUTHEAST CORNER OF THE NORTH 495.00 FEET OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 16; THENCE CONTINUE SOUTH ALONG SAID EAST LINE OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 TO THE NORTHEAST CORNER OF THE SOUTH 272.50 FEET OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 16; THENCE SOUTH ALONG SAID EAST LINE OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 16 A DISTANCE OF 272.50 FEET TO THE NORTH RIGHT-OF-WAY LINE OF GRIFFIN ROAD; THENCE WEST ALONG SAID NORTH RIGHT-OF-WAY LINE OF GRIFFIN ROAD TO THE EAST LINE OF SAID EDGEWOOD PARK, ADDITION NO. 2, AS RECORDED IN PLAT BOOK 12, PAGE 61, PUBLIC RECORDS OF LAKE COUNTY, FLORIDA; THENCE NORTH ALONG THE EAST LINE OF SAID EDGEWOOD PARK, ADDITION NO. 2 TO THE SOUTHEAST CORNER OF LOT 17, OF SAID EDGEWOOD PARK, ADDITION NO. 2; THENCE WEST ALONG THE SOUTH LINE OF LOTS 17 AND 16, OF SAID EDGEWOOD PARK, ADDITION NO. 2 TO THE SOUTHWEST CORNER OF LOT 16 OF EDGEWOOD PARK, ADDITION NO. 2; THENCE NORTH ALONG THE WEST LINE OF SAID LOT 16 TO THE NORTHWEST CORNER OF SAID LOT 16, SAID POINT BEING ON THE NORTH LINE OF THE SOUTH 1/2 OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 16; THENCE WEST ALONG SAID SOUTH LINE TO THE WEST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 16; THENCE NORTH 1594.20 FEET MORE OR LESS TO A POINT THAT IS WEST OF THE POINT OF BEGINNING; THENCE EAST 1320 FEET, MORE OR LESS, TO THE NORTHEAST CORNER OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 16 AND THE POINT OF TERMINUS OF THIS DESCRIPTION.



Leesburg Fruit Co., Inc.
Concept Plan



**CITY OF LEESBURG PLANNING & ZONING DIVISION
STAFF SUMMARY**

DATE: October 9, 2015
OWNER: William Cauthen
PETITIONER: Greg Beliveau
PROJECT: Leesburg Fruit Company
REQUEST: Rezoning
CASE NO.: RZ-15-113

GENERAL LOCATION: The property is generally located on Griffin Road, east of CR 468 and west of Thomas Ave.

FUTURE LAND USE DESIGNATION:
Lake County Urban High Density

SURROUNDING FUTURE LAND USE DESIGNATION:

North –	Lake County Urban High Density Residential
South –	Lake County Urban High Density Residential and City Industrial
East –	Lake County Urban High Density Residential, Lake County Industrial, City Industrial, and City High Density Residential
West –	Lake County Urban High Density Residential

PROPOSED FUTURE LAND USE DESIGNATION:
City Medium Density

EXISTING ZONING DESIGNATION:
County A (Agriculture) and RP (Residential Professional)

SURROUNDING ZONING DESIGNATIONS:

North –	Lake County Agricultural Residential
South –	Lake County R-7 (Mixed Residential District) and Lake County Heavy Industrial District
East –	Lake County A (Agricultural), RP (Residential Professional), Heavy Industrial District, R-7 (Mixed Residential District)
West –	Lake County R-7 (Mixed Residential District)

PROPOSED ZONING DESIGNATION:
City PUD (Planned Unit Development)

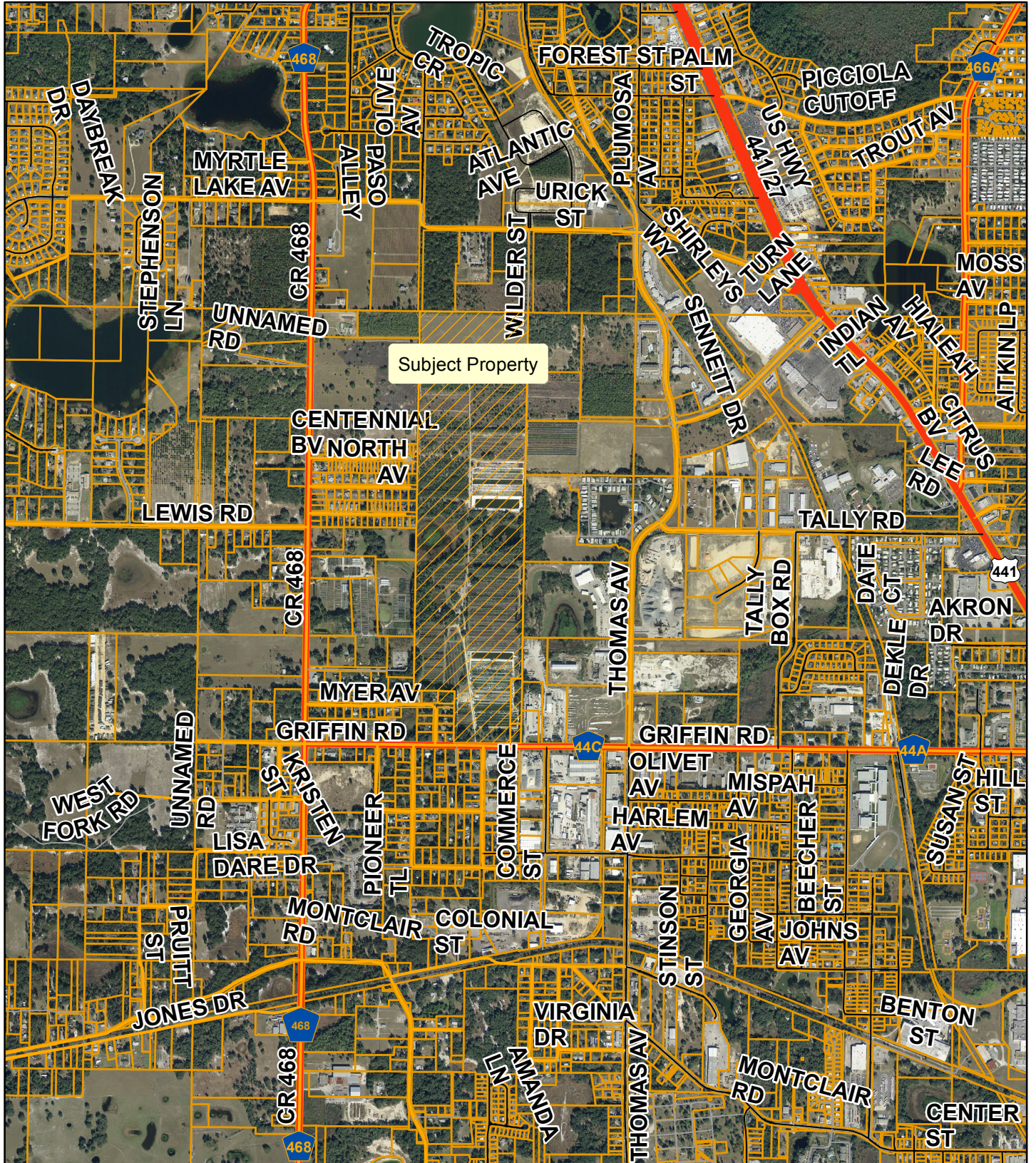
EXISTING LAND USE: Agriculture

SURROUNDING LAND USE:

North –	Agriculture, Residential (vacant)
South –	Industrial, Warehousing, Residential, Commercial
East –	Agriculture, Residential, FDOT DRA, Industrial, Manufacturing, Warehouse
West –	Residential, Agriculture, Utilities

PROPOSED LAND USE: Alternative energy source facility (solar energy)

Aerial



**Planning
& Zoning
Division**

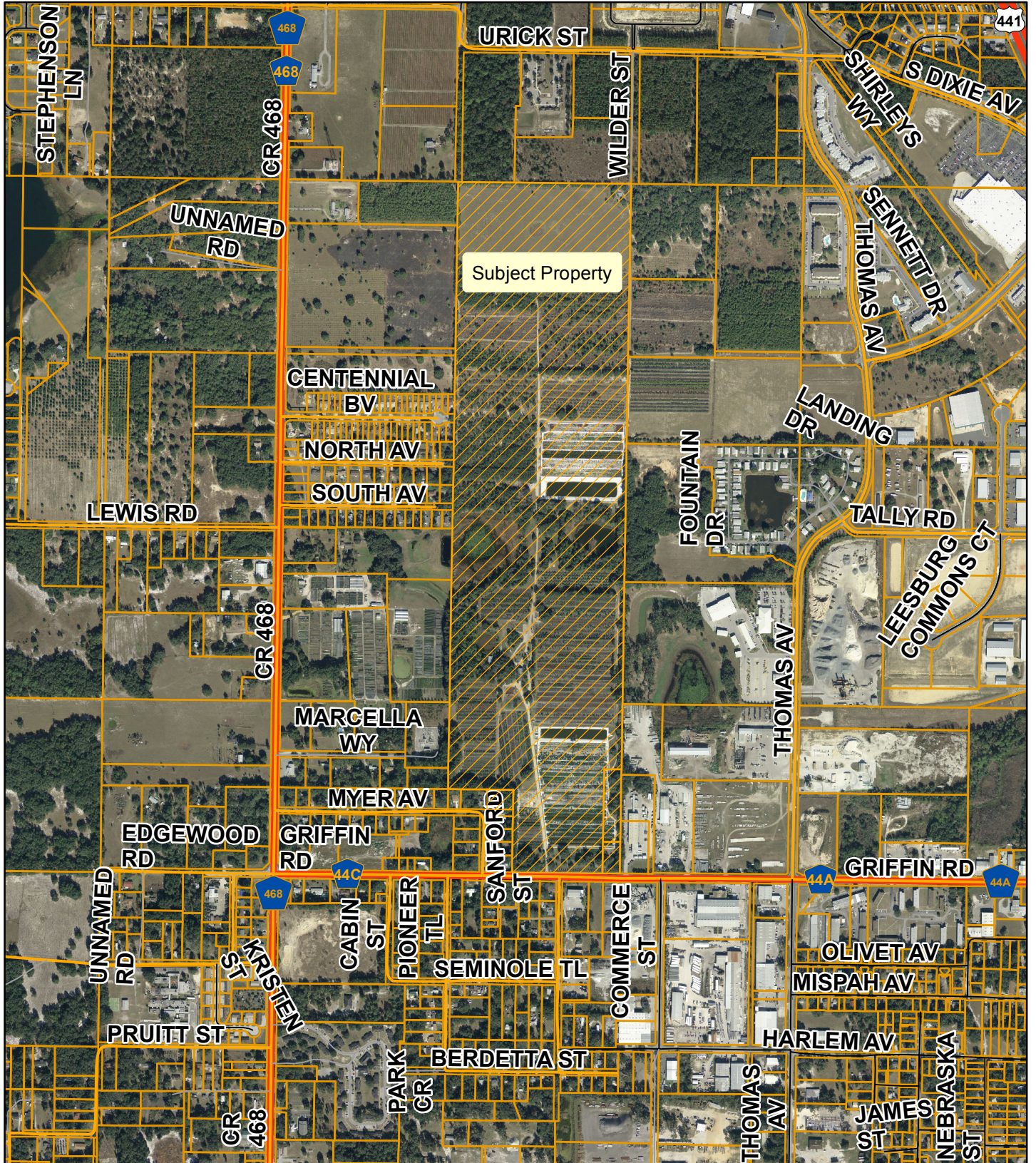


0 360 720 1,080 1,440

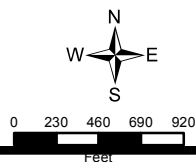
Feet

ANNX-15-111, LSCP-15-112, RZ-15-113
Leesburg Fruit Company
Leesburg, Florida
Sec 16&21 Twp 19 Rge 24

Aerial

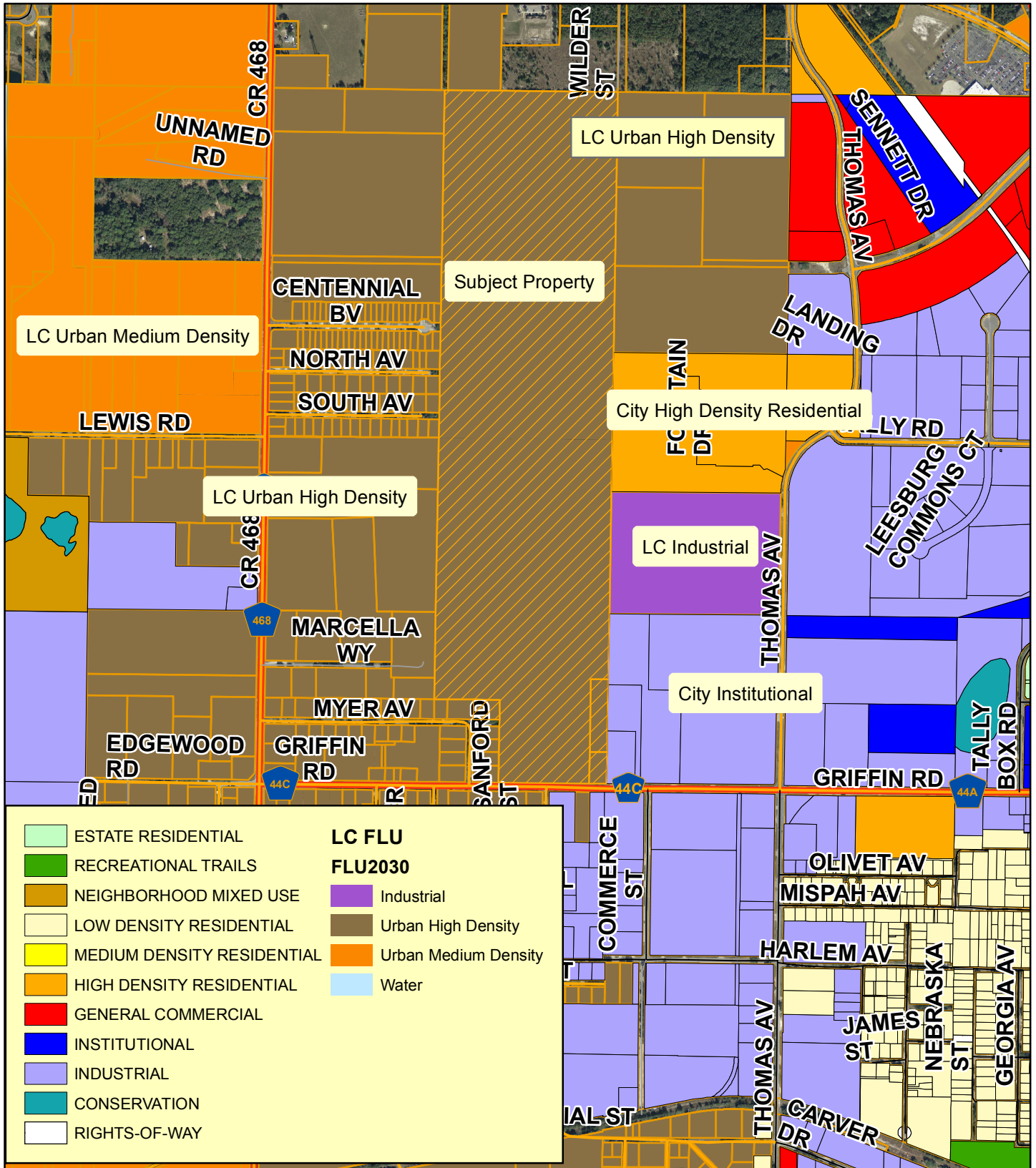


**Planning
& Zoning
Division**

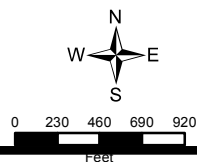


ANNX-15-111, LSCP-15-112, RZ-15-113
Leesburg Fruit Company
Leesburg, Florida
Sec 16&21 Twp 19 Rge 24

Future Land Use

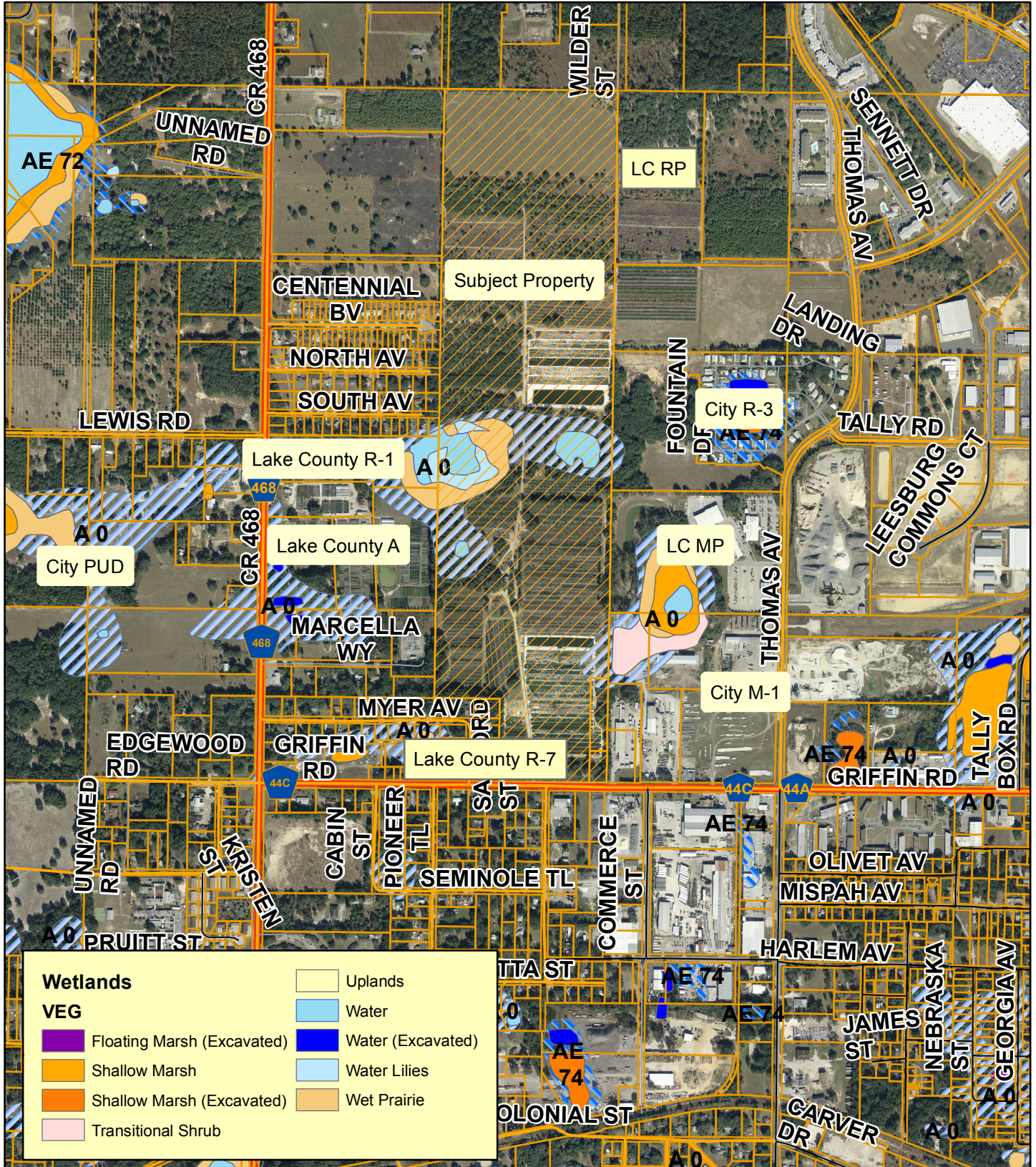


**Planning
& Zoning
Division**

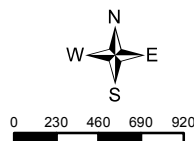


ANNX-15-111, LSCP-15-112, RZ-15-113
Leesburg Fruit Company
Leesburg, Florida
Sec 16&21 Twp 19 Rge 24

Wetlands & Flood Zones

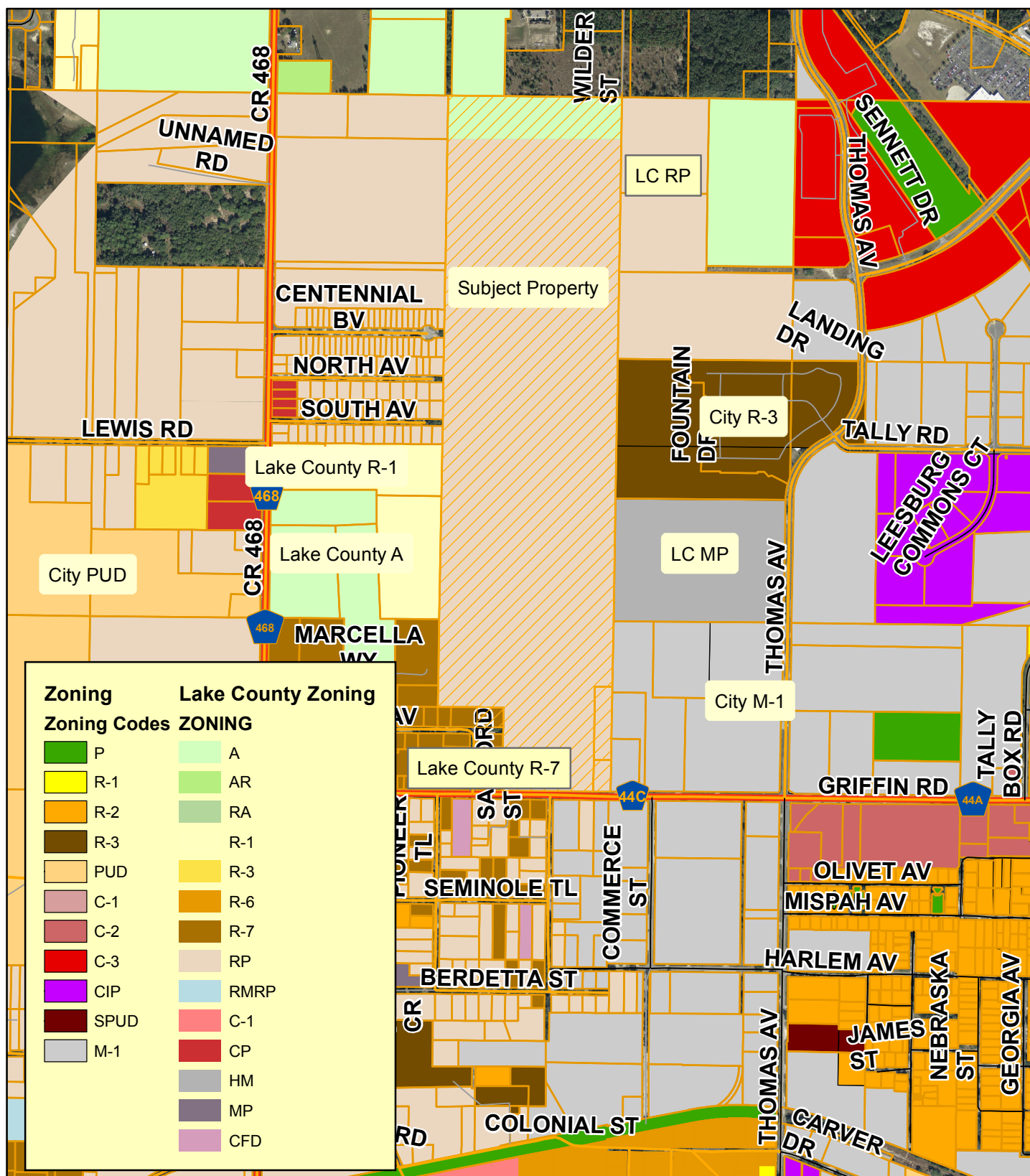


**Planning
& Zoning
Division**

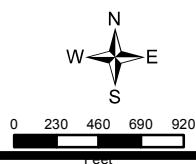


ANNX-15-111, LSCP-15-112, RZ-15-113
Leesburg Fruit Company
Leesburg, Florida
Sec 16&21 Twp 19 Rge 24

Zoning



Planning & Zoning Division



ANNX-15-111, LSCP-15-112, RZ-15-113
Leesburg Fruit Company
Leesburg, Florida
Sec 16&21 Twp 19 Rge 24



View from the Subject Property looking east across Griffin Road (CR-44C)



View of the Subject Property looking north



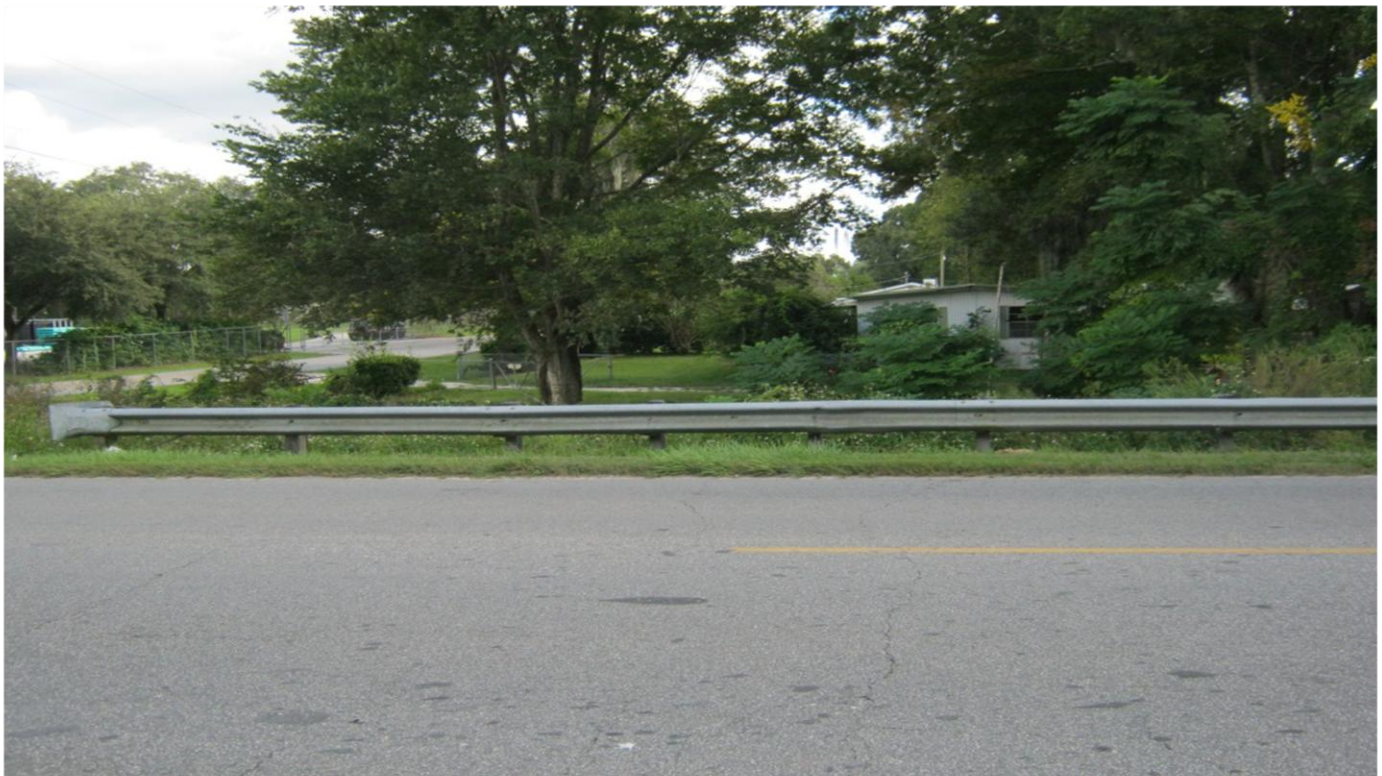
View of the Subject Property looking north



View of the Subject Property looking north
along access road onto the site



View from the Subject Property looking west
along Griffin Road (CR-44C)



View from the Subject Property looking south
across Griffin Road (CR-44C)



The Subject Property was posted



View from the Subject Property looking east along Griffin Road (CR-44C)



AGENDA MEMORANDUM

Item No: 5B

Meeting Date: December 7, 2015

From: Ken Thomas, Housing & Redevelopment Manager

Subject: US Highway 441/27 Community Redevelopment Agency (CRA) adoption of the Trust Fund, and amending the base year to the year 2014

Staff Recommendation:

Staff is recommending approval of an ordinance approving the US Highway 441/27 CRA Trust Fund and amending the base year to the year 2014.

Analysis:

The City of Leesburg is proposing to adopt the US Highway 441/27 Trust Fund, and resetting the base year to 2014. On May 22, 2006, the Leesburg City Commission adopted the US Highway 441/27 Redevelopment Plan with a completion period of thirty (30) years, expiring on September 30, 2036. Subsequently, on June 12, 2006 the City Commission adopted the US Highway 441/27 CRA Trust Fund in accordance with the provisions of Section 163.387, Florida Statutes. The Trust Fund was established to finance projects set forth in the community redevelopment plan.

Staff recognizes the need to reset the base year to assist in generating revenues that will be used to implement the projects and programs in the redevelopment plan. The purpose of creating the US Highway 441/27 CRA was to identify and address blighted conditions and to enable the City to establish a mechanism to finance redevelopment projects through Tax Increment Financing (TIF). The TIF will finance many of the redevelopment projects and programs identified in the redevelopment plan such as improve streetscape, development incentive programs, a parking, transportation and access plan and a commercial relocation program for those businesses that may need relocation while building renovation are taken place.

The City's survival as a governmental entity is dependent upon the generation of adequate tax revenues to meet the service needs of its residents. Projects that increase the overall marketability of the City as a commercial, recreational and residential area will ultimately increase the tax base.

Options:

1. Adopt the ordinance resetting the base year to 2014 and approving the Trust Fund; or
2. Such alternative action as the Commission may deem appropriate

Fiscal Impact:

Adoption of the ordinance will help generate the revenue stream (TIF) to be used for project and programs for the US Highway 441/27 CRA.

Submission Date and Time: 12/3/2015 1:27 PM

Department: _____ Prepared by: _____ Attachments: Yes____ No ____ Advertised:____Not Required ____ Dates: _____ Attorney Review : Yes____ No ____ _____ Revised 6/10/04	Reviewed by: Dept. Head _____ Finance Dept. _____ Deputy C.M. _____ MWR 11/11/15 Submitted by: City Manager _____	Account No. _____ Project No. _____ WF No. _____ Budget _____ Available _____
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ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LEESBURG, FLORIDA, PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR THE AMENDMENT OF PROVISIONS PERTAINING TO THE COMMUNITY REDEVELOPMENT TRUST FUND FOR THE COMMUNITY REDEVELOPMENT AGENCY FOR THE U.S. HIGHWAY 441 & 27 AREA; AMENDING THE BASE YEAR FOR APPROPRIATIONS TO THE REDEVELOPMENT TRUST FUND TO THE YEAR 2014; PROVIDING FOR THE DESIGNATION OF THE COMMUNITY REDEVELOPMENT TRUST FUND AS THE RECIPIENT OF FUNDS PURSUANT TO SECTION 163.387, FLORIDA STATUTES; PROVIDING FOR ENFORCEMENT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Leesburg has by Resolution established a finding of blight pertaining to the area encompassed within the area comprising the Community Redevelopment Agency (the "Agency") for the U.S. Highway 441 & 27 Area (hereafter referred to as the "District"); and,

WHEREAS, the City Commission desires to provide for the removal of such blighted areas and redevelop such areas, pursuant to the Community Redevelopment Act of 1969, hereafter referred to as the "CRA", as contained in Florida Statutes, Chapter 163, Part III, and,

WHEREAS, the City Commission has, by Resolution, approved an updated Community Redevelopment Plan for the District, or will do so in the very near future, and has expanded or will expand the boundaries of the District, and has extended or will extend the term of the Agency.

NOW, THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF LEESBURG, FLORIDA:

SECTION I.

There is hereby re-established, in accordance with the provisions of Section 163.387, Florida Statutes, a Community Redevelopment Trust Fund, hereafter referred to as the "Fund," for purposes of receiving and disbursing the revenue of the Agency.

SECTION II.

The monies allocated to and deposited into the Fund are hereby appropriated to the Agency, to finance projects within the District, which projects are set forth in the updated Community Redevelopment Plan, and are hereafter referred to collectively as the "Project". The Agency shall utilize the monies and the revenue paid into and earned by the Fund for all and every Community Redevelopment purpose delegated to it by the updated Community Redevelopment Plan, hereafter referred to as the "Plan", and as further provided by law. The Fund is to exist for the duration of the Project programs or until legally terminated by ordinance. Said monies shall be held by the City for and on behalf of the Agency and distributed to the Agency in accordance with the existing agreement entered into between the City and the Agency.

SECTION III.

There shall be paid into the Fund each year by all taxing authorities collecting taxes from within the expanded District, excluding the Lake County School Board, the incremental increase in ad valorem taxes levied each year by the above-referenced taxing authorities over the amount of ad valorem taxes levied by the reference taxing authorities in the base year, as established in Section 5 below.

SECTION IV.

The tax roll used in connection with the taxation of such property for the base year shall be the Tax Roll of 2014 in Lake County. All deposits into the Fund shall begin with the incremental increases in ad valorem tax revenues in tax year 2016 and subsequent years.

SECTION V.

The tax increment shall be determined and appropriated annually in an amount equal to the difference between:

- a. that amount of ad valorem taxes levied each year by all taxing authorities, excluding the Lake County School Board, on taxable real property contained within the geographic boundaries of the expanded District; and,
- b. that amount of ad valorem taxes which would have been produced by the rate upon which the tax is levied each year by or for all taxing authorities, excluding the Lake County School Board, upon the total of the assessed value of the taxable property in the District, as shown upon the 2014 assessment roll used in connection with the taxation of such property by all taxing authorities, excluding the Lake County School Board. If any conflict occurs between the provisions of this Ordinance and the provisions of Chapter 163, Part III, Florida Statutes, concerning tax increment financing, the statutory provisions shall control and apply to this Ordinance.

SECTION VI.

The tax increment shall be computed by using the assessed value of taxable property in the District for the year 2014 as the base, and in subsequent years using the assessment value of property in the District for that year as the second factor in determining the amount of tax increment in that year.

SECTION VII.

All taxing authorities, excluding the Lake County School Board, will annually appropriate to the Fund the aforesaid sum at the beginning of their fiscal year. The Fund shall receive the tax increment above described only as, if and when such taxes are collected by the taxing authorities. The taxing authorities' obligation to annually appropriate to the Fund shall commence immediately upon the effective date of this Ordinance and continue until all loans, advances and indebtednesses, if any, and interest thereon, incurred by the Agency as a result of the Project has been paid and only to the extent that such tax increment recited above accrues.

SECTION VIII.

The Agency, with the approval of the City Commission, has established and set up the Fund and adopted rules regulations and criteria whereby the Fund may be promptly and effectively administered, including the establishment and the maintenance of books and records and adoption of procedures whereby the Agency may, expeditiously and without undue delay, utilize said monies for their allocated statutory purpose. The operation of the Fund shall continue under those same rules, regulations, and criteria.

SECTION IX.

The Agency accepts full responsibility for the receipt custody, disbursement, accountability, management and proper application of all monies, paid into the Fund subject to the provisions of Section 2 of this Ordinance.

SECTION X.

All ordinances or part of ordinances which are in conflict with this Ordinance are hereby repealed, to the extent necessary to alleviate the conflict, but shall continue in effect insofar as they are not in conflict herewith, unless repeal of the conflicting portion destroys the overall intent and effect of any of the conflicting ordinance, in which case those ordinances so affected shall be hereby repealed in their entirety.

SECTION XI.

If any portion of this Ordinance is declared invalid or unenforceable, and to the extent that it is possible to do so without destroying the overall intent and effect of this Ordinance, the portion deemed invalid or unenforceable shall be severed herefrom and the remainder of the ordinance shall continue in full force and effect as if it were enacted without including the portion found to be invalid or unenforceable.

SECTION XII.

This Ordinance shall become effective upon its passage and adoption according to law.

PASSED AND ADOPTED at the regular meeting of the City Commission of the City of Leesburg, Florida, held on the _____ day of November 2015.

THE CITY OF LEESBURG, FLORIDA

BY: _____
ELISE A. DENNISON, Mayor

Attest: _____
J. ANDI PURVIS, City Clerk



AGENDA MEMORANDUM

Item No: 5C.

Meeting Date: December 7, 2015

From: Al Minner, City Manager

Subject: Carver Heights CRA – Outreach Center

Staff Recommendation:

Approve the Outreach Center as a formal project and authorize staff to move forward with design plans.

Analysis:

For several months the Carver Heights Community and CDC have met individually and with City staff in order to discuss avenues to improve the Carver Heights CRA community. These discussions have been brought to the attention of the City Commission, as well as, the Carver Heights CRA Board. Resoundingly, the consensus is that the best avenue, at this time, to address blighted conditions is to construct a community Outreach Center. The Center's main objective is to provide services and education for individuals and families to improve their quality of life circumstances; thereby, taking a grass roots approach to addressing blighted conditions. This approach has proven successful in several Florida communities and Leesburg's approach is specifically modeled from the City of St. Petersburg, Florida.

The Commission and CRA Board have been presented preliminary cost estimates and concept proposals on such a facility in Leesburg. Costs estimates are \$1.2 million with 2-3 reasonable City owned locations, which eliminates the cost of land acquisition. With the (1) retirement of existing Carver Heights CRA debt scheduled for FY 16; and, (2) the time and area expansion of the CRA, the financial ability exists to invest in this project. Below is an updated financial analysis which depicts the ability of the CRA to fund the project:

BASIC CRA REVNUUE	
City Tax Increment	\$ 68,109
County Tax Increment	96,281
TOTAL	\$ 164,390
CRA EXPENSES	
Current Operations	\$ 7,195
Outreach Center Projections	
Staffing (P/T) *	-
Programming	25,000
Utilities	20,000
Communications	1,000
Insurance	8,000
Repairs & Maintenance	1,500
Minor Furniture & Equipment	2,000
Operating Supplies	3,000
Miscellaneous	1,500
SUBTOTAL OPERATING	69,195
Out Reach Center Debt Payment	\$ 90,000
TOTAL CRA ESTIMATE	\$ 159,195
REVENUE - EXPENSES	\$ 5,195
* In an effort to get the project moving, current housing staff can be utilized. As programs and other funding sources are aquired, operating levels and programming can grow; thereby, making the project affordable.	

Hence, staff is ready to move the project forward pursuant to the following estimated timeline:

TASK	TIME FRAME
Professional Services CCNA	December/February 2016
Site Selection	Spring-Summer 2016
Professional Services Contract Award	February/March 2016
Final Design Approval	June/August 2016
Construction Agreement Award	Late Summer 2016
Construction Bidding	August/September 2016 - March/April 2017
Grand Opening	Spring/Summer 2017
Assumptions:	6-9 Months for Design
	9 Months for Construction

As a final note, there are also ample reserves funds available in the CRA to cover the cost of design. Using these funds to cover professional service fees will kick-start the project and provide a source for additional information to help better determine a final construction and operational cost plan.

Impediments:

For all practical purposes there are two minor impediments to the project.

Financial – While the project can be funded by the CRA, the debt issuance and operating costs absorb all CRA funds for the next 20 years (assuming no growth in the CRA district). However, the City Commission made the same level of commitment to the Greater Leesburg CRA with the Main Street project. (Note: Debt issue assumes 20 year term at 3.5%)

Staffing/Full Programming – Initial staffing is a potential shortfall. However, due to the expertise of existing Economic and Housing Staff, initial personnel costs can be absorb by current personnel until revenues grow, grant funds are received, or other priorities are shifted to fund outreach operations. This approach will leave a minimal impact on the General Fund.

Submission Date and Time: 12/3/2015 1:28 PM

Department: _____ Prepared by: _____ Attachments: Yes___ No ___ Advertised: ___ Not Required ___ Dates: _____ Attorney Review : Yes___ No ___ _____ Revised 6/10/04	Reviewed by: Dept. Head _____ Finance Dept. _____ Deputy C.M. _____ Submitted by: _____ City Manager _____	Account No. _____ Project No. _____ WF No. _____ Budget _____ Available _____
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RESOLUTION NO. _____

RESOLUTION OF THE CITY COMMISSION OF THE CITY OF
LEESBURG, FLORIDA AUTHORIZING THAT THE CARVER
HEIGHTS COMMUNITY REDEVELOPMENT AGENCY SHALL
ALLOCATE FOR A CAPITAL IMPROVEMENT PROJECT
TITLED "CARVER HEIGHTS OUTREACH CENTER" AND
AUTHORIZE THE CITY MANAGER TO BEGIN SEEKING
DESIGN AND PROFESSIONAL SERVICES; AND PROVIDING
AN EFFECTIVE DATE.

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LEESBURG,
FLORIDA:**

THAT the Mayor and City Commission hereby authorize that the Carver Heights
CRA shall allocate for a capital improvement project titled "Carver Heights Outreach
Center" and authorize the City Manager to begin seeking design and professional services
required to execute such project.

THAT this resolution shall become effective immediately.

PASSED AND ADOPTED by the City Commission of the City of Leesburg, Florida, at a
regular meeting held the 7th day of December 2015.

Mayor

ATTEST:

City Clerk